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The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 2.21.3703, 2.21.3707, 2.21.3708, 2.21.3711, 2.21.3719, 2.21.3721, 2.21.3723, and 2.21.3726, and the repeal of ARM 2.21.3709 pertaining to the Recruitment and Selection Policy	))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On September 7, 2017, at 9:30 a.m., the Department of Administration will hold a public hearing in Room 136 of the Mitchell Building, at 125 N. Roberts Street, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on August 24, 2017, to advise us of the nature of the accommodation that you need. Please contact Ann Brewer, Department of Administration, P.O. Box 200127, 125 N. Roberts Street, Helena, MT 59620-0127; telephone (406) 444-3879; Montana Relay Service 711; facsimile (406) 444-0703; or e-mail annbrewer@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.21.3703 DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) "Applicant" means an individual who ~~satisfies the following three criteria:~~

~~(a) the individual has indicated an interest in the particular position;~~

~~(b) the agency considers the individual for employment in particular position; and~~

~~(c) the individual~~ has followed the agency's standard procedures for submitting the required application~~s~~, materials such as, for example, a resume~~s~~, cover letter, application form, or ~~both~~ other documentation.

(2) "Competencies" means a set~~s~~ of measurable and observable knowledge, skills, abilities, and behaviors that contribute to success in a job.

(3) through (4)(b) remain the same.

(5) "Job analysis" means the process of gathering, analyzing, ~~and~~ creating, and documenting information about a position to identify the essential duties, functions, roles, and competencies required to perform the work~~, and the written documentation of the analysis~~.

(6) remains the same.

(7) "Qualifications" means the minimum requirements needed to perform the job on the first day of employment, including ~~and~~ the education, experience, and competencies associated with successful job performance.

(8) "Vacancy announcement" means a recruitment posting, including the job duties, qualifications, and application instructions. Vacancy announcements are also called job listings and requisitions.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: The "applicant" definition has been updated to clarify and to eliminate unnecessary wording. The current policy notes an application and resume are needed to be considered for a position. Examples of required document types are proposed to give the applicant an idea of what information may be requested as part of the hiring process. Minor clarification is proposed to include documenting information during the job analysis process. The current wording is not clear and concise. To provide consistency with the current processes used by agencies, the definition of "vacancy announcement" is being added to the definitions rule and removed from ARM 2.21.3709 to consolidate definitions. The new definition also clarifies that "job listings" and "requisitions" may be used as alternate reference names for vacancy announcements. The proposal to allow alternate reference names reflects the current practice in state agencies. The remaining changes are proposed to make the rule more concise.

2.21.3707 INTERNAL RECRUITMENT (1) remains the same.

(2) Agency managers are encouraged, but are not required to consider applicants included in the job registry in an internal recruitment process. Reinstated employees are not required to participate in a competitive process to be rehired as provided in the Implementing a Reduction in Force Policy (https://montana.policytech.com/docview/?docid=328&public=true&fileonly=true).

~~(2)~~(3) Agency managers may:

(a) limit the internal competitive recruitment process to~~:~~

~~(i)~~ current employees of the agency, division, ~~or~~ other appropriate internal unit, or laid-off employees participating in the job registry as provided in the Implementing a Reduction in Force Policy; or

~~(ii) current employees and employees who have been laid off from the agency within one year of the effective date of layoff. Reinstated employees are not required to participate in a competitive process to be rehired as provided in Implementing a Reduction In Force, MOM Policy 3-0155;~~

~~(b) limit recruitment to laid-off employees participating in the job registry as provided in Implementing a Reduction In Force, MOM Policy 3-0155. Agency managers are encouraged, but not required, to consider applicants included in the job registry before recruiting from the general public; or~~

~~(c)~~(b) recruit internally to the agency, division, or other appropriate internal unit and to the job registry simultaneously unless this practice conflicts with agency policy or the provisions of a collective bargaining agreement.

~~(3)~~(4) Agency managers may consider temporary employees hired through a competitive process in an internal recruitment; however, student interns, ~~and~~ short-term workers, and temporary employees who were not hired through a competitive process are not eligible to ~~compete~~ participate in an internal recruitment.

~~(4)~~(5) Agency managers may reassign current employees to temporary assignments not ~~exceeding~~ to exceed a period of two years without using a competitive ~~process~~ recruitment. Agency managers shall use a competitive process when filling the position on a permanent basis.

~~(5)~~(6) Agency managers shall post internal vacancy announcements according to agency standard procedures. ~~The internal vacancy announcements should contain information similar to that required in ARM 2.21.3709, Vacancy Announcements.~~

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: Subsections (3)(a)(ii) and (3)(b) have been combined into (2) to remove redundant information. The department proposes that temporary employees may be considered for internal recruitment only if they went through a competitive process when initially hired to avoid abuse of temporarily hiring employees outside the competitive hiring process. The second sentence of (5) is being removed because the department is repealing ARM 2.21.3709 in this notice. The remaining changes are proposed to make the rule more concise.

2.21.3708 EXTERNAL RECRUITMENT (1) through (1)(b)(vii) remain the same.

(c) recalls a seasonal employee, as defined in 2-18-101, MCA, who was originally selected using a competitive recruitment process;

(d) and (e) remain the same.

(2) Agency managers shall post a vacancy announcement for all positions open to external recruitment on the State of Montana ~~Employment Information~~ Careers web site for at least five working days. The State Human Resources Division, Department of Administration, maintains the State of Montana ~~Employment Information~~ Careers web site ~~http://mt.gov/statejobs/statejobs.asp~~ http://statecareers.mt.gov.

(3) ~~Agency managers shall post vacancy announcements~~ If an agency manager decides to conduct an external recruitment for a temporary ~~employment~~ employee, as defined in 2-18-101, MCA, ~~or for permanent positions being filled on a temporary basis, with the State of Montana Employment Information~~ the vacancy announcement must be posted on the Careers web site~~, unless the agency director or designee decides the position must be filled immediately or other conditions exist that make it impractical to follow procedures outlined in this policy~~.

(4) through (4)(c) remain the same.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: The State Human Resources Division implemented a new recruiting system in 2015, which is referred to as "Careers." The previous web site is replaced to reflect the current recruiting system. Because agencies are not required to conduct a competitive recruitment process for temporary positions, (3) has been clarified by removing unnecessary wording, and to update the name of the state's hiring web site.

2.21.3711 COMPLIANCE WITH MILITARY SELECTIVE SERVICE ACT

(1) through (3) remain the same.

(4) Agencies shall request the documentation described in this rule at the time ~~they make~~ an employment offer is made. Agencies may adopt reasonable timelines for individuals to provide the documentation. The Department of Administration, State Human Resources Division, has published the ~~Montana~~ Military Selective Service Act Compliance ~~Guide~~ fact sheet (http://hr.mt.gov/Portals/78/newdocs/factsheets/SelectiveServiceFactSheet.pdf) to assist agencies in complying with this rule and the Military Selective Service Act. The ~~guide~~ fact sheet provides examples of adequate documentation and information about who must register with the S~~s~~elective S~~s~~ervice. If an individual does not provide documentation as required, and the exceptions in the fact sheet do not apply, agencies shall:

(a) through (5) remain the same.

AUTH: 2-15-130, MCA
IMP: 2-15-130, MCA

STATEMENT OF REASONABLE NECESSITY: The department proposes the new language in (4) so that this rule is consistent with the Military Selective Service Act fact sheet. Although the Selective Service fact sheet has been public since 2011, the direct link was never included in the rule. The direct link has been added to the rule for ease of access. The remaining changes are proposed to make the rule more concise.

2.21.3719 DEVELOPMENT OF SELECTION PROCEDURES (1) remains the same.

(2) Each selection procedure must be job-related and based on a current job analysis.

~~(a)~~ Agency managers shall review the written ~~position description or job profile~~ job description to ensure it accurately describes the current job duties, competencies, education, and experience to perform the job.

~~(b) For further guidance, agency managers may refer to the recruitment and selection resources found at the State Human Resources Division web site: http://hr.mt.gov/hrpp/guides.mcpx and also available from the State Human Resources Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, or telephone (406) 444-3871.~~

(3) and (4) remain the same.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: For consistency throughout this rule, "position description" and "job profile" are proposed to be replaced with the words "job description." Subsection (2)(b) is no longer applicable and therefore is proposed to be removed in its entirety.

2.21.3721 EVALUATION OF QUALIFICATIONS (1) and (2) remain the same.

(3) Agency managers may select from any of the most qualified group of applicants. The public employment hiring preferences must be applied as provided in:

(a) the Veterans' Employment Preference~~, MOM~~ Policy (ARM Title 2, chapter, 21, subchapter 36) ~~3-0172, revised October 3, 2003~~;

(b) the Persons with Disabilities Employment Preference~~, MOM~~ Policy (ARM Title 2, chapter, 21, subchapter 14) ~~3-0171, revised February 11, 2000~~; and

(c) as provided in 2-18-111, MCA, Hiring preference for residents of Indian reservations for state jobs within reservation — rules. ~~These policies are incorporated by reference and are also available from the State Human Resources Division, Department of Administration, Room 130 Mitchell Building, 125 Roberts Street, P.O. Box 200127, Helena, MT 59620-0127, or telephone (406) 444-3871.~~

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: The department proposes to remove the references to the Montana Operations Manual (MOM) policies and associated revision dates because these policies are now provided in administrative rules, as noted in the proposed additions, and are also available on the Secretary of State's website. Because the rules are inherently applicable to the hiring process, there is no need to incorporate them by reference in this rule, so that language is proposed for deletion. The remaining proposed changes are to make the rule more concise.

2.21.3723 INTENTIONAL MISREPRESENTATION (1) ~~Agency managers may exclude an applicant from further consideration for employment or discharge an employee if they learn an applicant intentionally misrepresented facts about their qualifications or job history during the recruitment and selection process.~~

~~(2)~~ The ~~state~~ employment process (online and traditional application) includes a ~~verification~~ notice~~. The~~ that information applicants provide is subject to verification. Willful misstatements of qualifications may exclude an applicant from further consideration for the position or may result in discharge from employment.

AUTH: 2-18-102, MCA

IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: Section (1) is proposed for removal because it repeats language in (2). The remaining changes are proposed to make the rule more concise.

2.21.3726 DOCUMENTATION (1) through (4)(c) remain the same.

(5) Agencies shall maintain items listed in this rule for a period of time consistent with the General Records Retention Schedule found at http://sos.mt.gov/Records/State ~~Forms.asp and also available from Records and Information Management, Montana Secretary of State, 130 Bozeman Street, P.O. Box 202801, Helena, MT 59620, telephone (406) 444-9000~~.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: The change to this rule is proposed because retention schedules are only provided online by the Secretary of State's Office.

4. The department proposes to repeal the following rule:

2.21.3709 VACANCY ANNOUNCEMENTS found on ARM page 2-1117.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: Because the definition of "vacancy announcement" is proposed to be included in ARM 2.21.3703, it is no longer necessary to retain this rule.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Ann Brewer, Department of Administration, P.O. Box 200127, Helena, MT 59620; telephone (406) 444-3879; Montana Relay Service 711; fax (406) 444-0703; or e-mail annbrewer@mt.gov, and must be received no later than 5:00 p.m., September 15, 2017.

6. Ann Brewer, Department of Administration, has been designated to preside over and conduct this hearing.

7. The State Human Resources Division maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a

mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the department's web site at http://doa.mt.gov/administrativerules. The department strives to make its online version of the notice conform to the official published version, but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. The department has determined that under 2-4-111, MCA, the proposed rule amendments and repeal will not significantly and directly affect small businesses.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 2.21.6608, 2.21.6612, and 2.21.6613 pertaining to the Employee Records Management Policy	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 7, 2017, at 11:00 a.m., the Department of Administration will hold a public hearing in Room 136 of the Mitchell Building, at 125 N. Roberts Street, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on August 24, 2017, to advise us of the nature of the accommodation needed. Please contact Ann Brewer, Department of Administration, P.O. Box 200127, 125 N. Roberts Street, Helena, Montana 59620; telephone (406) 444-3879; fax (406) 444-0703; Montana Relay Service 711; or e-mail annbrewer@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.21.6608 DEFINITIONS As used in this subchapter the following definitions apply:

(1) remains the same.

(2) "Confidential ~~records~~ information" ~~means records which, by law, are not public records~~ has the meaning set forth in 2-6-1002(1), MCA.

(3) through (6) remain the same.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: The proposed amendment to ARM 2.21.6608 reflects the definition of confidential information included in HB 123 passed by the 2015 Legislature. To avoid repeating statutory language, the definition of confidential information is proposed to be removed and replaced with a reference to the statute only.

2.21.6612 RECORDS THAT CONSTITUTE EMPLOYEE PERSONNEL RECORDS (1) through (1)(h) remain the same.

(i) background check information, including criminal, credit, and reference checks, and employment verification;

(j) and (k) remain the same.

(2) ~~Employee personnel records do not include documents, information, or other evidence developed as part of an investigation. If an investigation results in disciplinary action, the disciplinary action record is an employee personnel record. Investigations include, but are not limited to, grievances, violations of agency rules, policies, and procedures, or matters that may result in civil or criminal liability.~~ Disciplinary action records resulting from an investigation are part of the employee personnel records and are confidential. Other documented information related to an investigation, while not a part of the employee personnel records, is confidential to protect the privacy of the employees involved.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: The department proposes new language to (1)(i) to clarify for agencies the types of background checks to be included in employee personnel records. Section (2) is proposed for change to clarify that investigation files are kept confidential, as well as the disciplinary action records that may result from the investigation. Whether an agency should maintain the confidentiality of the investigation files was unclear. However, the confidentiality should be maintained to protect the privacy of the employee witnesses involved and to reduce involved employees' concern that information provided during an investigation may not be maintained as confidential.

2.21.6613 RECORDS ~~THAT CONTAIN~~ CONTAINING GENETIC INFORMATION (1) through (3)(e) remain the same.

(4) GINA prohibits the collection of genetic information, except in specific instances. For exceptions to obtaining genetic information, r~~R~~efer to:

(a) the Family and Medical Leave Policy (https://montana.policytech.com/docview/?docid=428&public=true&fileonly=true); ~~FMLA (MOM #03-0309),~~

(b) the Sick Leave Policy (https://montana.policytech.com/docview/?docid=175&public=true&fileonly=true); ~~(MOM #03-0310),~~

(c) the Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention Policy (ARM Title 2, chapter 21, subchapter 40)~~,~~; and

(d) the Reasonable Accommodations and Equal Access Policy (ARM Title 2, chapter 21, subchapter 41) ~~policies for exceptions to obtaining genetic information~~.

AUTH: 2-18-102, MCA
IMP: 2-18-102, MCA

STATEMENT OF REASONABLE NECESSITY: It is necessary to amend this rule to provide current links to policies regarding genetic information. Remaining proposed changes are to improve readability and follow drafting conventions.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Ann Brewer, Department of Administration, P.O. Box 200127, Helena, MT 59620; telephone (406) 444-3879; Montana Relay Service 711; fax (406) 444-0703; or e-mail annbrewer@mt.gov, and must be received no later than 5:00 p.m., September 15, 2017.

5. Ann Brewer, Department of Administration, has been designated to preside over and conduct this hearing.

6. The State Human Resources Division maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address or e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the department's web site at http://doa.mt.gov/administrativerules. The department strives to make its online version of the notice conform to the official published version, but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The department has determined that under 2-4-111, MCA, the proposed rule amendments will not significantly and directly affect small businesses.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I, the amendment of ARM 4.12.1405, and the repeal of 4.12.1436 pertaining to the Nursery Program	)))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION, AMENDMENT, AND REPEAL

TO: All Concerned Persons

1. On September 7, 2017, at 10:00 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, 302 N. Roberts, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Agriculture no later than 5:00 p.m. on September 4, 2017, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I NURSERY FEES (1) The license fees for each location of a firm, nursery, or plant dealer are as follows:

Gross annual sales of nursery stock:	Fee:
not more than $5,000	$25
$5,001 to $75,000	$135
$75,001 to $150,000	$200
$150,001 to $250,000	$300
Over $250,000	$400

(2) A landscape service shall pay a license fee of $150. If the landscape service also sells nursery stock, it shall pay a license fee either as a landscape service or as a nursery, whichever is greater.

(3) A sod farmer shall pay a license fee of $220.

AUTH: 80-7-106, MCA
IMP: 80-7-106, MCA

REASON: The fees are needed to conform to the minimums established by law to fund the department's nursery inspection program. The impact on a business will be the amount of the fee in the schedule each year per location. The department

anticipates the total of fees will generate approximately $105,500. The estimated number of nurseries and landscapers affected by the proposed rulemaking is 1,265.

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

4.12.1405 ~~PLANT INSPECTION CERTIFICATE/SURVEY COSTS~~ OTHER NURSERY FEES (1) All fees for services are payable upon receipt of a billing statement. The department may assess a collection fee of 18% annual percentage rate, or assess a minimum fee of $25, whichever is greater, for any payment amount not received on or before the last regular business day of each month. The department may require past due payment of fees prior to providing inspection services. The fees shall be as follows:

~~(a) Nursery stock certification, pursuant to 80-7-122, MCA:~~

~~(i) annual plant inspection certificates: $50; and~~

~~(ii) nursery tags: 15¢/tag - Nursery tags are issued provided that the commodity is inspected by the department. Costs for the inspection will be charged according to fees in this rule with a minimum $5 inspection fee.~~

(~~b~~a) Annual clean plant and indexing certification, pursuant to 80-7-108, MCA, is $250.

(~~c~~b) ~~Other services~~ Services:

(i) heat treatment certificates: $10; and

(ii) other documents of quarantine compliance: $10.

(~~d~~c) The department charges for mileage, lodging, per diem, and an hourly rate for certain services to recover costs for expenses that exceed the fees established in (1)(a), (b), and (c). These charges are as follows:

(i) actual cost of trapping, survey, and treatment materials when requested by public or private persons when related to export certification~~, nursery certification,~~ or nursery stock certification; and

(ii) hourly charge - $44 per hour with a one-hour minimum.

(~~e~~d) Charges for lodging, meals, and mileage will be computed in accordance with rates established in 2-18-501, MCA.

AUTH: 80-7-108, ~~80-7-122~~, MCA
IMP, 80-7-108, 80-7-110~~, 80-7-122~~, MCA

REASON: Section 80-7-122, MCA, was repealed by the legislature. These amendments remove references to it and any fee based on it.

5. The department proposes to repeal the following rule:

4.12.1436 COST OF INSPECTIONS

AUTH: 80-7-108, MCA
IMP: 80-7-108, MCA

REASON: The Cost of Inspections rule is no longer authorized by law nor necessary for the ordinary operation of the department's nursery program.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., September 15, 2017.

7. Cort Jensen, Department of Agriculture, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email on August 1, 2017.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal of the above-referenced rules will significantly and directly impact small businesses at the levels indicated in the reason.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to Pesticides	))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION

TO: All Concerned Persons

1. On September 7, 2017, at 11:00 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, 302 N. Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Agriculture no later than 5:00 p.m. on September 4, 2017, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, PO Box 200201, Helena, Montana, 59620; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I ANNUAL PESTICIDE REGISTRATION FEE/SPECIAL NEEDS FEE (1) The annual pesticide registration fee is $130.

(2) The pesticide registration special needs fee is $8.

AUTH: 80-8-201, MCA
IMP: 80-8-201, MCA

REASON: The proposed rulemaking implements the new fee structure proposed by the legislature at the lowest range in hopes of creating adequate funding for the program. It is anticipated that it will generate $1.6 million a year which represents an increase of just under $600,000 revenue. The number of active companies with pesticide products registered in Montana who will be affected by the proposed rulemaking is 1,900. There are 5,833 private applicators, 1,076 commercial applicators, and 789 government applicators.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., September 15, 2017.

5. Cort Jensen, Department of Agriculture, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email on August 1, 2017.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will significantly and directly impact small businesses.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State August 7, 2017.

BEFORE THE CLASSIFICATION REVIEW COMMITTEE

In the matter of the amendment of ARM 6.6.8301 and 6.6.8401 pertaining to establishment or revision of classifications for various industries for supplementing the NCCI Basic Manual and updates to the public participation guidelines	)))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 11, 2017, at 1:00 p.m., the Classification Review Committee will hold a public hearing in the 2nd floor conference room, at the Office of the Montana State Auditor, Commissioner of Securities and Insurance, 840 Helena Ave., Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Classification Review Committee will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact us no later than 5:00 p.m. on September 6, 2017 to advise us of the nature of the accommodation that you need. Please contact Ramona Bidon or Lisa Monroe, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; (406) 444-1942; TDD (406) 444-3246; fax (406) 444-3499; or e-mail rbidon@mt.gov or lmonroe@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

6.6.8301 ESTABLISHMENT OF CLASSIFICATION FOR COMPENSATION PLAN NO. 2 AND PLAN NO. 3 (1) The committee adopts and incorporates by reference the NCCI Basic Manual for Workers Compensation and Employers Liability Insurance, 2001, ed., as supplemented, including ~~through October 16, 2006~~ classifications established or revised in accordance with (2) below and 33-16-1023(3), MCA, which establish~~es~~ classifications with respect to employers electing to be bound by compensation plan No. 2 and plan No. 3 as provided in Title 39, chapter 71, part 22~~,~~ and part 23, MCA. A copy of the Basic Manual for Workers Compensation and Employers Liability Insurance is available for public inspection at the Office of the Commissioner of Insurance, 840 Helena Ave., Helena, MT 59601. Copies of the Basic Manual for Workers Compensation and Employers Liability Insurance may be obtained by writing to the Montana Classification Review Committee in care of the National Council on Compensation Insurance, Inc., ~~10920 W. Glennon Dr., Lakewood, Colorado 80226~~ c/o Regulatory Assurance Department, 901 Peninsula Corporate Circle, Boca Raton FL 33487-1362. Persons obtaining a copy of the Basic Manual for Workers Compensation and Employers Liability Insurance must pay the committee's cost of providing such copies.

(2) remains the same.

AUTH: 33-16-1012, MCA
IMP: 2-4-103, 33-1-115, 33-16-1012, MCA

REASON: The reasonable necessity for this rule amendment is to address the following:

To incorporate changes to law from SB 123 passed in the 2015 legislative session. SB 123 addressed the regulation of Plan No. 3 (Montana State Fund) under the Commissioner of Insurance and Title 33, MCA, per 33-1-115, MCA, effective January 1, 2016. Plan No. 3 therefore needs to be included in the caption and body of the rule.

The National Council of Compensation Insurance, Inc., (NCCI) has moved the location of the office supporting the Classification Review Committee (CR Committee) and this amendment will update the address.

To supplement the NCCI Basic Manual for Workers' Compensation and Employers Liability Insurance (Basic Manual) through the establishment and revision of classifications for various industries by the CR Committee. The classifications are utilized for Workers' Compensation Insurance. The CR Committee established in 33-16-1011 and 33-16-1012, MCA is responsible for the establishment and revision of classifications in accordance with Title 2, chapter 4, part 3, MCA, Adoption and Publication of Rules.

The purpose of the proposed amendment is to supplement the Basic Manual to include the establishment and revision of classifications approved by the CR Committee since the last rulemaking which occurred in 2008. The CR Committee met on June 14, 2017, approved ratification of the classification filings from 2010 through 2016, items 1-19, and agreed to proceed to rulemaking. See filing at: http://csimt.gov/wp-content/uploads/Classification-Review-Committee_Document1_2.pdf.

The CR Committee also approved proceeding to rulemaking for supplementing the Basic Manual with Item Filing B 1431- Revisions to Basic Manual Classifications and Appendix E—Classifications by Hazard Group and Item Filing B-1435—Revisions to Basic Manual Classifications and Appendix E—Classifications by Hazard Group, Including Trucking and Towing, below. These two Item Filings are to be effective July 1, 2018. See filings at: http://csimt.gov/wp-content/uploads/Classification-Review-Committee_Document1_2.pdf.

6.6.8401 PUBLIC PARTICIPATION GUIDELINES (1) through (5) remain the same.

(6) Committee files, other than personnel files and those files required by law or requirements of individual privacy to remain confidential, are open to public inspection. These files are located at the office of the National ~~Committee~~ Council on

Compensation Insurance, Inc. (NCCI), ~~7220 West Jefferson Avenue, Suite 310, Lakewood, Colorado 80235~~ c/o Regulatory Assurance Department, 901 Peninsula Corporate Circle, Boca Raton, FL 33487-1362. ~~Copies of committee files are located at the Office of the Commissioner of Insurance, Room 270, Sam W. Mitchell Building, P.O. Box 4009, Helena, MT 59604-4009.~~ Documents and information on the Classification Review Committee actions are available at the Office of the Commissioner of Insurance, 840 Helena Avenue, Helena, MT 59601, or on www.csi.mt.gov. Copies of specific documents are available from the ~~National Committee on Compensation Insurance~~ NCCI or the Office of the Commissioner of Insurance either free or for a reasonable copying charge.

(7) and (8) remain the same.

AUTH: 33-16-1012, MCA
IMP: 2-3-103, MCA

REASON: The reasonable necessity for amending this rule is to correct the reference to the National Council on Compensation Insurance, Inc (NCCI) and update the change in address of the NCCI files location. It is also necessary to update the change in address of the Office of the Commissioner of Insurance (CSI), clarify the nature of materials available at CSI, and include the CSI website address.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the CR Committee attention of: Michael Craddock, Underwriting Dispute Consultant, NCCI, c/o Regulatory Assurance Department, 901 Peninsula Corporate Circle, Boca Raton FL 33487-1362; telephone (561) 893-3820; fax (561) 893-5365; or e-mail Michael_Craddock@NCCI.com, and must be received no later than 5:00 p.m. MST, September 22, 2017.

5. Brett Olin, State Auditor's Office, has been designated to preside over and conduct this hearing.

6. The Classification Review Committee maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this committee. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the committee.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email and telephone on August 1, 2017.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Brett Olin	/s/ Greg Roadifer
Brett Olin	Greg Roadifer
Rule Reviewer	Committee Chair

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 12.3.109, 12.3.110, and 12.3.111 pertaining to disease management	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 12, 2017, at 6:00 p.m., the Department of Fish, Wildlife and Parks (department) will hold a public hearing at the Fish, Wildlife and Parks Region 3 Office, 1400 S. 19th Ave., Bozeman, Montana, to consider the proposed amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than September 1, 2017, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

12.3.109 PURPOSE (1) The purpose of these rules is to establish policies and procedures for issuing special hunting licenses and permits and for conducting big game damage hunts and game management seasons, and management removals by hunters addressing the risk of disease transmission.

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-1-201, 87-1-301, MCA

12.3.110 DEFINITIONS For purposes of these annual regulations:

(1) "Hunting season" means any season set to accomplish one or all of the following:

(a) and (b) remain the same.

(c) to fulfill responsibilities for game damage control (damage season)~~.~~;

(d) to address the risk of disease.

(2) through (4) remain the same.

(5) "Commission" means the Montana Fish~~,~~ and Wildlife~~, and Parks~~ Commission.

(6) remains the same.

(7) "Disease" means any disease that may directly or indirectly impact wildlife or wildlife management.

(7) through (16) remain the same but are renumbered (8) through (17).

AUTH: 87-1-201, 87-1-301, MCA
IMP: 87-1-201, 87-1-301, MCA

12.3.111 LICENSE/PERMIT PREREQUISITES (1) ~~Deer.~~ All valid resident conservation license holders and all valid nonresident big game (class B-10) and deer combination (class B-11) license holders may apply for deer permits. However, a holder of a B-11 license obtained through a landowner sponsor can only apply for a deer permit where the permitted area includes the landowner sponsor's property and can only use the permit for hunting on the landowner sponsor's property. All valid conservation license holders may apply for deer B licenses. All nonresident conservation license holders who do not possess a B-10 or B-11 license may apply for a nonresident deer A (B-7) license, if available.

(2) ~~Elk.~~ Only persons who possess a valid resident A-5 elk license or a valid nonresident class B-10 license may apply for a special elk permit or A-7 license. A person selected to harvest elk as part of disease management must follow specific regulations established for that management action and approved by the area Fish and Wildlife commissioner. These regulations may allow the use of unused elk licenses from the same license year in which the disease management action occurs. No person harvesting elk for disease management may purchase and hold more than one resident A-5/nonresident B-10 license and one antlerless elk license in any license year.

(3) and (4) remain the same.

AUTH: 87-1-201, 87-1-304, MCA
IMP: 87-1-201, 87-1-304, MCA

REASON: In 2016 the Montana Legislative Audit Division conducted a review of brucellosis responsibilities and efforts by the department. The one recommendation is to define agency responsibilities to provide assistance, landowner eligibility to receive assistance, and additional guidance to consistently implement and document brucellosis response actions. FWP partially concurs with the recommendation and is proposing these rule amendments as part of the agency's formal audit response.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Quentin Kujala, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail qkujala@mt.gov, and must be received no later than September 22, 2017.

5. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and

specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Aimee Hawkaluk
Aimee Hawkaluk
Rule Reviewer

/s/ Martha Williams
Martha Williams
Director
Department of Fish, Wildlife and Parks

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the adoption of a new subchapter codifying New Rules I through XII for technologically enhanced naturally occurring radioactive material (TENORM) waste	)))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION (SOLID WASTE MANAGEMENT)

TO: All Concerned Persons

1. On September 7, 2017, at 10:30 a.m., in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, the department will hold a public hearing to consider the proposed adoption of the above-stated rules. Before the hearing, on the same day, at 9:00 a.m., the department will conduct an informal public meeting to discuss the proposed rules and answer questions pertaining to these rules. On September 20, 2017, at 7:00 p.m., at the MonDak Heritage Center, 120 3rd Ave. SE, Sidney, Montana, the department will hold a public hearing to consider the proposed adoption of the above-stated rules. Before the hearing, on the same day, at 5:30 p.m., the department will conduct an informal public meeting to discuss the proposed rules and answer questions pertaining to these rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Sandy Scherer, Legal Secretary, no later than 5:00 p.m., August 31, 2017, to advise of the nature of the accommodation that you need. Please contact Sandy Scherer at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@mt.gov.

3. The rules proposed to be adopted provide as follows (for further explanation, see the General Reason Statement):

GENERAL REASON STATEMENT: Section 75-10-204, MCA, authorizes the department to adopt rules implementing the Montana Solid Waste Management Act (MSWMA). Section 75-10-227, MCA, authorizes the department to pursue administrative enforcement if any rules adopted to implement the MSWMA are violated.

According to ARM 17.50.502(41), waste is defined as useless, unwanted, or discarded materials in any physical form, i.e., solid, semi-solid, liquid, or gaseous. The term is not intended to apply to by-products or materials which have economic value and may be used by the person producing the material or sold to another person for resource recovery or use in a beneficial manner. According to ARM 17.50.502(37) and 75-10-203, MCA, a "solid waste management system" means a system which controls the storage, treatment, recycling, recovery, or disposal of solid waste. In addition, for the purposes of this definition, the department does not consider a container site to be a component of a solid waste management system.

Technologically enhanced naturally occurring radioactive material (TENORM) is naturally occurring radioactive material whose radionuclide concentrations are increased by or as a result of past or present human practices.

Naturally occurring radioactive material (NORM) occurs at low levels in soils and rocks and contains one or more radioactive isotopes, also called radionuclides. These radionuclides are present in geologic formations from which oil and gas are produced and from other sources, such as ground water aquifers that are used for drinking water and in bio-solids derived from wastewater treatment. The material generally consists of the radionuclides uranium and thorium and their daughter products, including radium. This TENORM is solid waste and must be disposed of in accordance with the Solid Waste Management Act.

In Montana, wastes are classified according to their physical and chemical characteristics and the resulting potential of the wastes for causing environmental degradation or public health hazards. This classification determines the degree of care required in handling and disposal. To this point, TENORM wastes have been regulated as Group II wastes and require management at a Class II facility. Class II facilities are designed to include the most protective controls to ensure the continued protection of human health and the environment.

The department is proposing NEW RULES I through XII to provide additional requirements to ensure protection of human health and the environment from the impacts associated with the management of TENORM waste. In development of the proposed rules, the department analyzed scientific studies and other states' regulations, and gained stakeholder input through the Solid Waste Advisory Committee (SWAC) meetings and other publicly received comments from industry and environmental groups. The department also received technical expertise from a consulting firm, Tetra Tech Inc. (Tetra Tech), and a draft of these rules were reviewed by a nonprofit, multi-stakeholder, educational organization, State Review of Oil and Natural Gas Environmental Regulations (STRONGER). STRONGER's board of directors is comprised of equal representation from the oil and gas industry, state oil and gas environmental regulatory agencies, and the environmental public advocacy community.

TENORM poses a radiation health risk not only from direct radiation exposure, but also from inhalation or ingestion of dust particles associated with the material. Daily cover of TENORM waste and mitigation of fugitive dust in a landfill reduces potential inhalation or ingestion. Dose rate monitoring will detect if there are any exceedances above the radiation limits to human health and the environment. Therefore, the proper landfilling of TENORM waste, such as requiring daily cover, dust monitoring, and dust control minimizes the potential radiation dose associated with radionuclides.

In accordance with the Atomic Energy Act (AEA), 42 USC 2011 et seq., the Nuclear Regulatory Commission (NRC) would have jurisdiction over NORM and TENORM only if it qualifies as source material (natural uranium or thorium at concentrations greater than 0.05 percent by weight). Licensed material is classified as source material, special nuclear material, or byproduct material and must be received, possessed, used, transferred or disposed of under a general or specific license issued by NRC.

Use and possession of radioactive materials that fall under the authority of the AEA are regulated by the NRC or an Agreement State. An Agreement State is a state that has signed an agreement with the NRC authorizing the state to regulate byproduct, source or special nuclear materials. Montana is not an Agreement State; therefore, the use and possession of radioactive source material is regulated by the NRC. TENORM is not considered to be licensed material subject to regulation by the NRC. Therefore, Montana has the authority for promulgating rules for TENORM solid waste management systems that are protective of human health and the environment.

The maximum allowable radiation dose for a radiation worker at a nuclear power plant, uranium mill or another facility licensed by the NRC is 5,000 millirem per year (mrem/y); and the maximum allowable radiation dose to a member of the public from one of these NRC licensed facilities or an Agreement State is 100 mrem/y, excluding background and medical radiation doses.

The United States Department of Transportation (DOT) exempt concentration for radium-226 and radium-228 is 270 picocuries/gram (pCi/g) for each in the absence of any other radionuclides except their short-lived decay products. Materials with concentrations below those limits are exempt from DOT regulation, but state or federal radionuclides regulations may apply to these materials.

The department believes that the safeguards provided in the proposed NEW RULES I through XII, such as: acceptance criteria, prohibitions, design and siting criteria, operation and maintenance plans, ground water monitoring, liquid restrictions, closure and post-closure care requirements, financial assurance, and spill reporting requirements, are protective of human health and the environment. In addition, the technical input provided by STRONGER, Tetra Tech, and stakeholders through SWAC meetings and other comments received by industry and environmental groups, helped further refine the proposed rules to specifically meet the concerns and needs of Montanans.

NEW RULE I PURPOSE AND APPLICABILITY (1) The purpose of this subchapter is to establish requirements for the management of technologically enhanced naturally occurring radioactive material (TENORM) at licensed solid waste management systems.

(2) The rules in this subchapter are adopted to discharge the department's responsibilities under Title 75, chapter 10, part 2, MCA, The Montana Solid Waste Management Act (MSWMA), by adopting rules governing solid waste management systems.

(3) Except as provided in (4), this subchapter applies to any person disposing of technologically enhanced naturally occurring radioactive material (TENORM) waste or operating or maintaining a solid waste management system involved in the storage, treatment, recycling, recovery of TENORM waste or TENORM contaminated filter socks or objects as defined in [NEW RULE II]. [NEW RULE XII] applies to any person transporting TENORM waste.

(4) This subchapter does not apply to management of TENORM at a facility regulated by the Board of Oil and Gas Conservation pursuant to Title 82, chapter 11, MCA.

(5) Existing waste management systems that are licensed to accept

TENORM waste must comply with the provisions of these rules by [date that is six months after the effective date of these rules].

AUTH: 75-10-204, MCA
IMP: 75-10-204, 75-10-214, MCA

REASON: Section 75-10-204, MCA, authorizes the department to adopt rules implementing the Montana Solid Waste Management Act (MSWMA).

Sections (1), (2), and (3) are adopted to inform the regulated community and the public of the scope and the statutory basis for the rules. Section (4) is necessary because, under 75-10-214(1)(b), the MSWMA does not have authority over facilities regulated by the Board of Oil and Gas Conservation, and therefore these rules cannot apply to these facilities. Section (5) is proposed because existing facilities that manage TENORM cannot come into compliance with these rules immediately. Six months should be adequate to come into compliance.

NEW RULE II DEFINITIONS In this subchapter, the following definitions apply:

(1) "Filter sock" means a sock-like bag used to filter solids from fluids.

(2) "Hazardous waste" has the meaning given in 75-10-403(8), MCA.

(3) "Spill" means discharging, injecting, depositing, dumping, releasing, spilling, leaking, or placing of TENORM waste into or onto the land so that the waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters, including ground water.

(4) "Technologically enhanced naturally occurring radioactive material (TENORM)" means naturally occurring radioactive material whose radionuclide concentrations are increased by or as a result of past or present human practices. TENORM includes, but is not limited to, drill cuttings, drilling mud, and hydraulic fracturing (frac) sands associated with oilfield exploration and production activities. TENORM does not include background radiation or the natural radioactivity of rocks or soils. TENORM does not include "source material" and "byproduct material" as both are defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) and relevant regulations implemented by the United States Nuclear Regulatory Commission (NRC).

(5) "TENORM contaminated" refers to a solid object(s) such as but not limited to: filter socks, equipment and/or survey instruments that are not themselves classed as TENORM material, but have TENORM material distributed on any of their surfaces as a result of industrial or technological activity.

(6) "TENORM waste" is solid waste that contains TENORM.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: The department is proposing NEW RULE II(1) through (6) to provide the regulated community with certainty regarding the requirements of the proposed rules regarding TENORM waste management systems.

The department is proposing NEW RULE II(1) because the term is not

commonly used by the general public. NEW RULE IV(2) contains different waste characterization sampling requirements for TENORM contaminated filter socks than other waste material due to the number of filter socks contained in transport trailers coming from production sites and the potential for filter socks to have higher concentrations of TENORM than other waste.

The department is proposing NEW RULE II(2) to clarify in NEW RULE V what substances are specifically prohibited.

The department is proposing NEW RULE II(3) to provide a definition for the term "spill" used in NEW RULE XII that broadly defines spills associated with TENORM to ensure that all releases of TENORM are evaluated and addressed if necessary.

The definition in NEW RULE II(4) is proposed to notify persons of what material is regulated by these rules. The definition specifically includes drill cuttings, drill mud, and hydrologic fracturing sands because it is unclear whether these materials would otherwise meet the definition. They are considered to be TENORM in some states and not in others. The department has determined that, due to their content, they should be specially regulated and therefore subject to these rules.

The definitions in NEW RULE II(5) and (6) reflect the common meaning of the terms but are added to avoid any misunderstanding of what is meant by the terms as they are used in these rules.

NEW RULE III TENORM WASTE MANAGEMENT SYSTEM LICENSE REQUIREMENT, APPLICATION REQUIREMENTS (1) Except as provided in [New Rule I](4) or (5), a person may not construct, expand, or operate a TENORM waste management system after [the effective date], without a solid waste management system license from the department.

(2) An applicant for a TENORM waste management system license shall submit an application to the department on a department-approved form. The application must comply with ARM 17.50.508 and include:

(a) signed documentation granting access to the property to the department, private contractors, and the waste management system owner/operator to perform activities associated with operation of the TENORM waste management system;

(b) technical design specifications;

(c) construction plans;

(d) a detailed site plan that includes:

(i) information concerning any material that will be used to construct a liner or berm, including but not limited to:

(A) type, quantity, and source;

(B) compaction density;

(C) moisture content;

(D) design permeability; and

(E) liner construction quality assurance and quality control (QA/QC) plans;

(ii) design and location of any proposed storage or treatment areas;

(iii) design and location of any liquid containment or storage structures; and

(iv) design, location, and grades of any surface water diversion and drainage structures;

(e) an operation and maintenance plan that complies with the requirements

of [NEW RULE VII];

(f) a ground water monitoring plan that complies with the requirements of [NEW RULE VIII]; and

(g) a closure and post-closure plan that complies with the requirements of [NEW RULE X].

(3) The department may require modifications of the application to ensure that the requirements of these rules will be met and that human health and the environment will be protected.

(4) An owner or operator who has received a license pursuant to this subchapter shall construct, operate, and close the licensed facility, and shall conduct post-closure operations, in compliance with the terms of the approved application and license, including the approved operation and maintenance, ground water monitoring, and closure and post-closure plans.

AUTH: 75-10-204, MCA
IMP: 75-10-204, 75-10-221, MCA

REASON: Proposed NEW RULE III establishes the requirements for TENORM licensing to ensure waste management systems are licensed properly, follow the pertinent requirements according to their facility type, and to let the regulated community know when they need to be in compliance with the proposed rules. The information and plans required by this rule are necessary to ensure compliance with the substantive requirements for the operation and closure of TENORM waste management facilities.

NEW RULE IV ACCEPTANCE CRITERIA FOR TENORM WASTE MANAGEMENT SYSTEMS (1) The owner or operator of a TENORM waste disposal management system shall manage the waste so that:

(a) the annual average TENORM concentration in a disposal unit does not exceed 50.0 picocuries per gram (pCi/gm) of radium-226 plus radium-228; and

(b) the TENORM concentration of waste in an active disposal unit does not result in the exceedance of the dose limit of 100 millirem per year (mrem/y) at the boundary of the active disposal unit based upon the results of the department approved site-specific modeling.

(2) Prior to removal from the point of generation, a TENORM waste generator shall collect samples for characterization as follows:

(a) With the exception of TENORM contaminated filter socks, the TENORM waste generator shall collect at least 1 composite sample that consists of 5 sub-samples per 200 cubic yards of TENORM waste material generated from the same contaminant source and analyzed in accordance with the agency protocol for waste acceptance criteria at licensed TENORM waste management systems in Montana DEQ's guidance "Requirements for the Characterization of TENORM Wastes" Montana DEQ – Solid Waste Program (Revised August, 2017) available at http://deq.mt.gov/Land/solidwaste or by contacting DEQ's Solid Waste Program at (406) 444-5300.

(b) A waste generator of TENORM contaminated filter socks generated from the same contaminant source shall collect at least 1 composite sample that consists

of 5 sub-samples per 20 cubic yards or less and analyzed in accordance with the agency protocol for waste acceptance criteria at licensed TENORM waste management systems in Montana DEQ's guidance "Requirements for the Characterization of TENORM Wastes" Montana DEQ – Solid Waste Program (Revised August, 2017) available at http://deq.mt.gov/Land/solidwaste or by contacting DEQ's Solid Waste Program at (406) 444-5300.

(3) The owner or operator of a waste management system licensed to manage TENORM waste shall screen every incoming load and document the characterization of the TENORM waste prior to acceptance and management on site. The characterization criteria must include:

(a) generator information;

(b) identification of the waste source location, volume, physical state, and type;

(c) identification of the process producing the waste;

(d) method of receipt; and

(e) contaminant concentrations or dose rate.

(4) TENORM contaminated objects, equipment and/or survey instruments that exceed a maximum exposure limit of 100 microroentgen per hour (μR/hr), including background radiation at any accessible location, must not be disposed in a landfill.

(5) If annual average contaminant concentrations exceed [NEW RULE IV](1)(a) or dose limits exceed [NEW RULE IV](1)(b), the owner or operator of a waste disposal management system shall follow the requirements in [NEW RULE VII](4).

(6) The department adopts by reference Montana DEQ's guidance "Requirements for the Characterization of TENORM Wastes" Montana DEQ – Solid Waste Program (Revised August, 2017) available at: http://deq.mt.gov/Land/solidwaste or by contacting DEQ's Solid Waste Program at (406) 444-5300.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: Proposed NEW RULE IV establishes the acceptance criteria requirements for TENORM waste management systems to ensure protection of human health and the environment. These rules provide the necessary regulatory framework to protect human health and the environment. For acceptance criteria for TENORM waste management systems, there is no comparable federal regulation or guideline addressing the same circumstances, so the requirements of 75-10-107, MCA, do not apply.

The department is proposing a dual-protective approach in setting acceptance criteria for TENORM that the annual average TENORM concentration does not exceed 50.0 pCi/gm of radium-226 plus radium-228 and that TENORM waste in a landfill does not result in the exceedance of the dose limit of 100 mrem/y at the boundary of the active disposal unit based upon the results of the department approved site-specific modeling. This approach is based upon analyzing scientific studies holistically and providing safety for human health and the environment. The

department believes this dual protective approach in addition to all of the safeguards provided in this subchapter such as: daily cover requirements, prohibitions, design and siting criteria, operation and maintenance plans, ground water monitoring, liquid restrictions, closure and post-closure care requirements, financial assurance, and spill reporting requirements, are protective of human health and the environment.

The department requested technical expertise from Tetra Tech Inc. (Tetra Tech) to assist and provide guidance in developing rules regarding TENORM waste management for the State of Montana. Tetra Tech developed a report entitled "Development of TENORM Rules for the State of Montana" (December, 2016), available at http://deq.mt.gov/Land/solidwaste or by contacting DEQ's Solid Waste Program at (406) 444-5300 (hereafter Tetra Tech's report). The three main authors of this report are as follows: a radiological scientist with an area of expertise in radiation health physics with over 40 years of experience, and a PhD in Environmental Health, MS in Health Physics and BS in Chemistry; a senior scientist with over 40 years of experience, and a PhD in Radiation Biology, MS in Health Physics, and a BA in Physics; and a Project Environmental Engineer with over 10 years of experience, a MS in Civil and Environmental Engineering and a BS in Environmental Resources Engineering.

According to Tetra Tech's report: "The amount of radioactivity in a material is expressed in terms of the becquerel (Bq), or more commonly in the United States, the curie (Ci). The Ci is a very large amount of radioactivity, so when natural radioactivity is of concern, the activity is usually expressed in terms of millionths of a Ci (µCi) or trillionths of a Ci (pCi). The activity concentration in TENORM is expressed as becquerels per kilogram (Bq/kg) or picocuries per gram (pCi/g). The average background activity concentrations in soil are approximately 0.9 pCi/g uranium-238 and 1.2 pCi/g thorium-232 (National Council on Radiation Protection and Measurements, 1992)."

The report also states: "Radiation doses to humans are generally expressed in terms of millisieverts (mSv), or more commonly in the U.S., in millirem (mrem). The dose unit represents the amount of energy absorbed in human tissue, the distribution of the energy, and the sensitivity of the whole body or individual organs to radiation. The dose in mrem indicates the potential long-term human health risk. Radiation doses to individuals in the U.S. from natural background radiation range from approximately 200 mrem per year (mrem/y) to more than 1,000 mrem/y in high background locations primarily in the Rocky Mountain region. The average background radiation dose in the United States is approximately 311 mrem/y (NCRP, 2009)."

Tetra Tech's report concluded: "Assuming the landfill worker spends no more than 50 percent of his or her time managing TENORM and that the mix of radionuclides includes thorium-232 at a ratio not greater than 25 percent of the total activity (as was assumed for the example described in Appendix A), an average radium-226 plus radium-228 activity concentration less than 50 pCi/g is likely to be protective and should meet the 100 mrem/y dose limit for the landfill worker. DEQ could establish a default acceptance criterion, a 'threshold,' that would be protective of workers and the public under landfill conditions that comply with the general landfill requirements for groundwater and air monitoring. Such landfills would be expected to operate under a routine set of conditions, receiving a relatively

unchanging and specific mix of TENORM radionuclides." This concentration limit is contained in proposed NEW RULE IV(1)(a).

For example, a threshold value of 67 pCi/g was calculated for a TENORM mixture of 25 percent radium-228, 25 percent thorium-232, and 50 percent radium-226, assuming a landfill worker spent only 1,000 hours per year handling TENORM. (See Appendix A of Tetra Tech's report). Further, research conducted by Tetra Tech indicates that thorium-232 concentrations relative to radium-226 plus radium-228 in wastes from the producing formations associated with oil and gas development in North Dakota and Pennsylvania account for an average activity of 27 percent and 17 percent, respectively. However, information from North Dakota did not include thorium activity in drill cuttings or drilling muds because these waste streams are not regulated as TENORM waste in North Dakota, but constitute a large portion of TENORM wastes as defined in Montana. The data from Pennsylvania suggests that thorium activity in drill cutting accounts for less than 1 pCi/g, or less than 20 percent, of the total radium plus thorium activity. Tetra Tech concludes that "this calculation and the review/evaluation leading to it suggest that a somewhat more conservative threshold soil TENORM concentration of 50 pCi/g, if selected by DEQ, would be protective of human health and the environment."

It should be noted that other states, such as North Dakota, exclude drill cuttings, hydraulic frac sands and drilling mud from their definition of TENORM, yet they constitute a large fraction of exploration and production (E&P) wastes. In contrast, Montana is proposing to include all of these materials in its own definition of TENORM.

Scientific studies, such as the Argonne National Laboratory (ANL) report, "Radiological Dose and Risk Assessment of Landfill Disposal of Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) in North Dakota" (ANL, 2014) available at http://www.ndhealth.gov/ehs/tenorm/ or by contacting DEQ's Solid Waste Program at (406) 444-5300 indicate that a maximum average concentration limit of 50 pCi/g total radium, and an annual volume limit of 10 percent of all material accepted at the landfill excluding drill cuttings, hydraulic frac sands and mud, would be environmentally sound and protective of human health. This report also concluded that at these levels, health risks would be negligible for humans. Workers actively involved in landfill operations, individuals living adjacent to the landfill during disposal action, the general population living within a 50 mile radius, and future industrial and recreational users of the landfill property would be protected. In addition, the ANL report stated that while thorium-232 may be present in the wastes in addition to radium, the average thorium activity for wastes associated with the producing formations did not exceed 24 pCi/g.

Landfill workers in Montana spend less than 50 percent of their time on the landfill working face. Landfill equipment operators direct waste haulers to the area of the landfill where wastes are to be deposited. However, wastes are not typically spread out until the end of the working day and the necessary daily cover is applied. Therefore, exposure to the typical TENORM waste landfill worker is minimized.

The department is proposing NEW RULE IV(1)(b) in accordance with the recommendation in Tetra Tech's report conclusion, that acceptance criteria for TENORM could be based on the acceptable annual dose of 100 mrem/y to the landfill worker and member(s) of the public. In addition, this dose limit is also

supported by other scientific studies, recommendations, and guidelines.

According to the "Evaluation of EPA's Guidelines for Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) Report to Congress" (June, 2000) available at https://www.epa.gov/sites/production/files/2015-04/documents/402-r-00-001.pdf or by contacting DEQ's Solid Waste Program at (406) 444-5300, the National Academy of Science (NAS) Committee found that the risk assessment methods for TENORM are not based on the source because effective dose (or risk) is based on radiation type (e.g., alpha, beta, gamma), its energy and, for internal radiation, sensitivity of specific organs. The NAS Committee also found that it is widely accepted to use a linear, no-threshold dose-response relationship at low levels of exposure. Important factors to consider include: the physical characteristics of a site, the extent of the TENORM source, and the projected land use.

The NAS Committee recommended to the EPA that it should use dose and risk assessments that are "reasonably realistic" for developing exposure standards to the various types of TENORM. The Committee defined "reasonably realistic" as "not intended to greatly overestimate or underestimate actual effects for the exposure situation of concern." The EPA agreed with this recommendation and encouraged including a range of potential exposure scenarios for the exposed individual. The NAS Committee also recommended developing stylized methods of dose and risk assessments for assumed reference conditions that are "reasonably representative" of the exposure situations of concern.

According to the E-42 Task Force Report "Review of TENORM in the Oil & Gas Industry" (June, 2015) available at http://www.crcpd.org/news/306896/E-42-Task-Force-Report-Review-of-TENORM-in-the-Oil-and-Gas-Industry.htm or by contacting DEQ's Solid Waste Program at (406) 444-5300, volumes and concentrations should not be used as the basis for estimating the potential for public dose. The report points out that the exposure pathway is critical in determining exposure potential. The report also discusses how the practice of adding fill and cover material significantly reduces the average concentration of any TENORM waste disposed at a facility. In addition, the report concludes that with the proper monitoring and maintenance of TENORM facilities, the potential for worker and public exposure in the present and into the future is minimized. Furthermore, using a dose-based standard with appropriate monitoring, training of workers, operation and maintenance requirements, and proper closure and post closure requirements should pose little risk to human health and the environment.

According to the E-42 Task Force Report "Review of TENORM in the Oil & Gas Industry" (June, 2015), landfill workers receiving TENORM waste in excess of license requirements should be treated in relation to the potential of their exposure and a radiation protection plan should be implemented accordingly. General awareness training is appropriate for licensed TENORM facilities that have landfill personnel exposures below 100 mrem/y.

For each facility, the department approved site-specific modeling will demonstrate whether TENORM waste will exceed the proposed dose limit set in NEW RULE IV(1)(b) of 100 mrem/y at the boundary of the active disposal unit.

The department is proposing NEW RULE IV(2) and IV(3) to ensure that sampling and characterization are done, necessary details are collected, and a

licensed waste management system does not exceed the concentration in NEW RULE IV(1)(a) or the dose limit established in NEW RULE IV(1)(b).

NEW RULE IV(2)(a)'s requirement of 1 composite sample that consists of 5 sub-samples per 200 cubic yards is based upon soil characterization requirements for landfarm remediation and/or landfill disposal.

NEW RULE IV(2)(b) is proposed because TENORM contaminated filter socks should be sampled more intensively due to the number of filter socks contained in transport trailers coming from production sites and the potential for TENORM contaminated filter socks to have higher concentrations of TENORM than other waste. The requirement to take 1 composite sample that consists of 5 sub-samples per 20 cubic yards or less is based upon the standard and most common size of delivery vehicle loads for filter socks, which is 20 cubic yards.

NEW RULE IV(3) requires specific documentation requirements to enable the department to track specifics, such as where the waste came and how it was produced. This information will allow the department to ensure compliance with the concentration limit.

NEW RULE IV(4) is proposed to ensure contaminated objects, equipment and/or survey instruments that exceed 100 microroentgen per hour (µR/hr), are not disposed in a landfill that complies with this subchapter to protect human health and the environment. 100 µR/hr is protective of worker health, according to the following calculations provided by Tetra Tech: Assuming the net surface exposure rate of the object is 85 µR/hr = 0.085 mR/hr and the background is 15 µR/hr (average background in Montana is 2 to 7 µR/hr), then the total measured exposure rate of the object plus the background would be100 µR/hr. Except for his/her hands and arms, the worker would be expected to be at a distance of at least 0.5 m from the source. The reduction in exposure rate with distance from the source depends on the geometry of the source. A factor of two would be a conservative distance factor. Therefore, the estimated exposure rate at the worker's body attributable to the source would be one-half the net surface exposure rate or 0.043 mR/hr. A worker is not likely to spend a significant amount of time handling the object. Assuming 200 hours per year at an exposure rate of 0.043 mR/hr, the annual exposure would be 8.6 mR. Also, assuming 1 mR exposure gives a dose of 1 mrem, the estimated annual dose would be 8.6 mrem, which is well below the dose limit of 100 mrem/y.

The department is proposing NEW RULE IV(5) to ensure waste disposal management systems follow the proper requirements if contaminant concentrations or dose limits are exceeded.

The guidance in NEW RULE IV(6) requires characterization methodologies that the department has determined will provide accurate characterization and consistent results between facilities.

NEW RULE V PROHIBITIONS (1) If hazardous waste or TENORM waste that exceeds the acceptance criteria in [NEW RULE IV] is delivered to a landfill for disposal, the waste must be rejected.

(2) Disposal of waste subject to regulation by the NRC, which does not meet the definition of TENORM, is prohibited in all licensed TENORM waste management systems.

(3) If prohibited wastes are received, the owner or operator of the licensed

TENORM waste management system shall note the source, amount, generator, and other identifying information about the rejected waste and shall notify the department in writing within 24 hours of waste rejection.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: NEW RULE V is proposed to ensure that TENORM waste that violates acceptance criteria is not placed in a landfill. The department is also proposing to include notification requirements in NEW RULE V(3) to ensure the department is aware of the source, amount, generator, and other identifying information about the rejected waste in a timely manner. The proposed rule enables the department to provide compliance assistance and enforcement actions if necessary.

NEW RULE VI DESIGN AND SITING CRITERIA (1) The department may approve a license for a TENORM solid waste management system, or lateral expansion of a licensed TENORM solid waste management system, only if the department determines that the design is protective of the uppermost aquifer. The design must utilize a composite liner, a leachate collection and leachate removal system that are designed and constructed to maintain less than a 30-cm depth of leachate over the liner.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: Proposed NEW RULE VI(1) sets requirements for design criteria for TENORM waste management systems to ensure protection of human health and the environment.

The design requirement to utilize a composite liner and a leachate collection and removal system that are designed and constructed to maintain less than a 30-cm depth of leachate over time is in accordance with ARM 17.50.1204. This requirement is to ensure the uppermost aquifer is protected.

NEW RULE VII OPERATION AND MAINTENANCE (1) A waste management system approved to manage TENORM waste as defined in [NEW RULE II](6) must have an Operation and Maintenance (O&M) Plan that includes:

(a) waste acceptance criteria that depicts the types of wastes that will be accepted;

(b) a description of how the waste management system will determine whether a shipment of wastes meets the acceptance criteria;

(c) the types of onsite sampling and testing that will be utilized;

(d) the procedures for rejecting waste;

(e) procedures for the management of TENORM wastes that comply with the requirements of ARM 17.50.509;

(f) provisions for hydrogen sulfide monitoring, dust monitoring, and dust control;

(g) the radiation survey equipment to be used and calibration procedures that meet the following criteria:

(i) the equipment and calibration procedures must be capable of accurately measuring radiation; and

(ii) calibration records must be available for inspection by the department;

(h) an employee radiation protection training and awareness program plan to provide workers with knowledge necessary to comply with the requirements of this subchapter and protect their health and public health;

(i) provisions to minimize noise impacts on residential areas to the degree practicable through berms, vegetation screens, and reasonable limits on hours of operation; and

(j) provisions to monitor ionizing radiation at the active facility boundary on at least a monthly basis to ensure that doses to member(s) of the public at the facility boundary do not exceed 100 mrem/y.

(2) The owner or operator of a waste disposal management system licensed to manage TENORM waste shall file the annual report required by ARM 17.50.410(1)(b) that includes a demonstration indicating that the waste management system has not exceeded the annual average concentration limit contained in [NEW RULE IV](1)(a).

(3) The owner or operator of a waste management system licensed to manage TENORM waste shall file with the department a monthly summary report indicating the date of receipt, type and waste characterization results, dose readings at the boundary of the active landfill unit contained in [NEW RULE IV](1)(b) and [NEW RULE VII](1)(j). The report must be filed within 15 days after the end of each month; and if TENORM wastes have not been accepted for disposal during the reporting period, the report must indicate this.

(4) If the owner or operator of a licensed TENORM waste management system, or the department, determines, pursuant to [NEW RULE IV](1)(a) that the annual average concentration has been exceeded or dose limit in [NEW RULE IV](1)(b) or in [NEW RULE VII](1)(j) has been exceeded, the owner or operator shall:

(a) within 5 days after this determination, or notification by the department of the department's determination, place a notice in the operating record indicating the exceedance, and notify the department that this notice was placed in the operating record; and

(b) within 15 days after the determination was made or notice from the department was received, submit for department approval, a corrective action plan. The plan must provide that:

(i) the materials responsible for the exceedance will be removed and properly disposed of; or

(ii) additional clean soil material will be applied over the waste disposal unit.

(5) TENORM waste must be covered by at least six inches of clean soil or department approved daily cover material by the end of each operating day. For landfills that operate continuously (24 hours per day), all TENORM waste must be covered at least once during every 24 hour period.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: Proposed NEW RULE VII establishes the criteria for TENORM facility waste management system operation and maintenance plan. The department has determined that it is reasonably necessary to require an operator to submit an operation and maintenance plan for a facility so that the department can be assured that the owner or operator of the facility will comply with the requirements of these rules and will operate the facility in a manner that will ensure protection of human health and the environment.

The proposed rule requires that the owner or operator include waste information and radiation monitoring procedures that will allow the department to determine whether the operating plan is adequate to ensure that the limits in NEW RULE IV(1) will be met. Submission of the plan and department review is intended to ensure that each solid waste management system is evaluated on a case-by-case basis taking into consideration the physical characteristics of the site, and the types and amounts of wastes.

Dust monitoring and dust control are necessary to protect human health and the environment by limiting worker and public exposure to TENORM and radiation. In addition, hydrogen sulfide monitoring is necessary due to potential residual vapors contained in waste to protect worker and public exposure.

In addition, the proposed rule requires facilities have provisions for radiation protection training and awareness for workers to achieve the same goals. The rule requires the owner or operator to tailor training to the risk associated with a particular facility.

Because noise impacts on surrounding neighborhoods from facility operations and waste hauling can adversely affect public health, the department is proposing to require the owner or operator to include provisions to mitigate noise impacts.

The department is proposing to monitor dose limits on a monthly basis for the public at the active facility boundary and require necessary corrective measures if the limit is exceeded as required by NEW RULE VII(4).

The department is proposing NEW RULE VII(4) to address exceedances of the annual average concentration or dose limit. If an exceedance is detected, the owner or operator is required to identify department approved methods to detect areas with higher concentrations or dose limits and develop the appropriate corrective action plans. If corrective actions cannot lower the concentration or dose level to an acceptable level as described in NEW RULE IV(1)(a) and IV(1)(b), the load would need to be removed and properly disposed of.

The department is proposing NEW RULE VII(5) in accordance with the recommendation in Tetra Tech's report "Development of TENORM Rules for the State of Montana" (December, 2016), that TENORM should be covered by at least 6 inches of clean material on a daily basis. NEW RULE VII(5) is also in accordance with ARM 17.50.1104(1), which also requires an owner or operator of a Class II landfill to cover disposed solid waste with six inches of earthen material at the end of each operating day.

TENORM poses a radiation health risk not only from direct radiation exposure, but also from inhalation or ingestion. Daily cover of TENORM waste in a landfill reduces potential inhalation or ingestion. In addition, mitigation of fugitive dust minimizes the potential for inhalation of radionuclides. Dose rate monitoring will

detect if there are any exceedances above the radiation limits to human health and the environment. Therefore, the proper landfilling of TENORM waste, such as requiring daily cover, dust monitoring, and dust control minimizes the potential radiation dose associated with radionuclides and possible "hot spots." The addition of cover soil at the end of each working day provides an additional barrier from exposure to TENORM waste.

NEW RULE VIII GROUND WATER MONITORING (1) The owner or operator of a licensed waste management system that accepts TENORM wastes and does not have an approved no-migration demonstration according to ARM 17.50.1204 shall submit to the department for approval a site specific ground water sampling and analysis plan based upon the requirements of ARM Title 17, chapter 50, subchapter 13 Ground Water Monitoring and Corrective Action. Ground water monitoring requirements must be tailored to the types of waste being managed and site specific conditions.

(2) The TENORM waste management system owner or operator shall monitor for all constituents and parameters required in the department-approved site specific ground water sampling and analysis plan at least semiannually during the active life of the waste management system and the closure and post-closure periods. During the first semiannual sampling event, a minimum of four independent samples from each background and downgradient well must be collected and analyzed for all constituents and parameters for which monitoring is required in this rule. At least one sample from each background and downgradient well must be collected and analyzed during subsequent semiannual sampling events. The department may specify an appropriate alternative frequency for repeated sampling and analysis for constituents and parameters for which monitoring is required in this rule during the active life of the unit and closure and the post-closure care periods. An alternative frequency during the active life of the unit and closure, may be no less frequent than annual. An alternative frequency must be based on consideration of the following factors:

(a) lithology of the aquifer and unsaturated zone;

(b) hydraulic conductivity of the aquifer and unsaturated zone;

(c) ground water flow rates;

(d) minimum distance between upgradient edge of the waste management system and downgradient monitoring well screen (minimum distance of travel); and

(e) resource value of the aquifer.

(3) In addition to the site specific department approved ground water sampling and analysis plan, the owner or operator of the TENORM waste management system shall monitor for any constituents deemed necessary by the department and for the constituents in Table 1:

Table 1
Constituents for Detection Monitoring

Common Radionuclides	Exceedance Concentrations
Radium-226 in pCi/L and radium-228 in pCi/L	Combined radium-226 and radium-228: 5 pCi/L; alpha particle activity (including

	radium-226, excluding radon and uranium): 15 pCi/L;
Uranium in micrograms per liter	30 micrograms per liter (µg/L)

(4) If detection monitoring results indicate an exceedance in the concentration listed in Table 1 for any of the constituents, the owner or operator of the waste management system shall implement an assessment monitoring program and corrective actions based upon ARM Title 17, chapter 50, subchapter 13, and any other measures deemed necessary by the department.

AUTH: 75-10-204, MCA
IMP: 75-10-204, 75-10-207, MCA

REASON: Proposed NEW RULE VIII(1) through (3) establishes ground water monitoring requirements for TENORM waste management systems to ensure protection of human health and the environment.

Ground water monitoring at waste management facilities is required by existing rules. However, existing rules do not require monitoring for radiation in ground water. Proposed NEW RULE VIII(2) requires ground water monitoring of specific constituents associated with TENORM in addition to ground water monitoring required under ARM Title 17, chapter 50, subchapter 13 Ground Water Monitoring and Corrective Action. The exceedance concentrations in Table 1 are EPA's Safe Drinking Water Act maximum contaminant levels for radionuclides found in 40 CFR 141.66 available at https://www.gpo.gov/fdsys/pkg/CFR-2009-title40-vol22/pdf/CFR-2009-title40-vol22-sec141-66.pdf or by contacting DEQ's Solid Waste Program at (406) 444-5300.

Proposed NEW RULE VIII(4) outlines corrective action measures if detection monitoring indicates an exceedance specifically for TENORM constituents. These requirements are necessary to ensure protection of public health and the environment.

NEW RULE IX LIQUIDS RESTRICTIONS (1) Bulk or non-containerized liquid waste may not be placed in a TENORM waste disposal unit unless:

(a) the waste has first been sufficiently solidified according to a department-approved method and will pass the paint filter liquids test; or

(b) the waste is leachate derived from the Class II landfill unit, whether it is a new or existing Class II landfill unit or lateral expansion of an existing Class II landfill unit, and the landfill unit is designed and constructed with a composite liner, leachate collection and leachate removal system that complies with ARM 17.50.1204(1)(b).

(2) The owner or operator shall submit a demonstration to the department that the waste or waste disposal facility meets the requirements of (1), place the demonstration in the waste management system operating record, and notify the department that it has been placed in the operating record.

(3) The owner or operator of a TENORM waste management system that intends to recirculate leachate shall:

(a) only recirculate leachate over areas of the facility with a composite liner and leachate collection system;

(b) submit to the department a plan for approval that includes the following:

(i) a location map where leachate will be recirculated; and

(ii) a leachate system design plan that contains:

(A) supporting assumptions, drawings, and calculations to demonstrate the leachate collection system will be able to handle the additional volume of liquid and maintain no more than one-foot of head above the liner;

(B) a specific design of the drainage layer;

(C) a description of the method that will be used to ensure that drainage layer will not become plugged;

(D) a description of the method that will be used to ensure there will not be a chemical reaction of the leachate with the drainage layer material;

(E) a description of the method that will be used to ensure long-term permeability of the drainage layer;

(F) a description of the method to verify excessive head is not collecting above the liner;

(G) a description of the method to ensure that leachate application is performed at a low flow rate with uniform distribution over the proposed recirculation area;

(H) a description of the method to ensure leachate application does not exceed holding capacity of the soils so as to cause ponding, runoff, or any discharge of leachate from the facility; and

(iii) any other information deemed necessary by the department;

(c) not recirculate leachate during periods of high winds, freezing temperatures, or during or immediately after rainfall events;

(d) provide adequate leachate storage when leachate is not being applied;

(e) submit to the department for approval a quarterly sampling plan to monitor changes in leachate composition that includes the following:

(i) a description of the statistical analysis of the results to determine increases;

(ii) if the statistical analysis shows an increasing trend that includes consultation with the department to either modify or halt recirculation activities, an action plan;

(iii) any other information deemed necessary by the department; and

(f) submit quarterly records to the department that include the amount of leachate recirculated, locations of recirculation, and leachate testing results.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: Proposed NEW RULE IX(1) through (2) sets liquid restrictions and leachate recirculation requirements specifically for TENORM waste management systems to ensure protection of human health and the environment.

Proposed NEW RULE IX(1) through (2) are necessary to adopt TENORM liquid restriction and leachate recirculation requirements. They set restrictions for bulk or non-containerized liquid to avoid potential impacts to ground water resources and spills during transport. Proposed NEW RULE IX(2) sets recirculation requirements to ensure recirculation is done with a proper liner, leachate collection

and removal systems, design plan, proper drainage layer and interface between leachate and drainage layer material, proper permeability of the drainage layer, avoidance of excessive head collecting above the liner and proper methods are utilized. NEW RULE IX(2) also ensures that recirculation is done at appropriate times to ensure efficiency by avoiding freezing temperatures and maximizing evaporation. Reporting requirements makes the department aware of daily operations and ensures that leachate is being managed in accordance with the department approved plan. In addition, NEW RULE IX(3) ensures that, if there is a detection of an increasing trend of a parameter(s) corrective actions are implemented if necessary to protect human health and the environment.

NEW RULE X CLOSURE AND POST-CLOSURE CARE REQUIREMENTS

(1) The owner or operator of a licensed TENORM landfill facility shall comply with the Class II closure and post-closure care requirements in ARM Title 17, chapter 50, subchapter 14.

(2) The owner or operator of a licensed TENORM processing, storage, recovery, and recycling facility shall submit a closure and post-closure plan for department approval that includes:

(a) timeline and methods for site decommissioning;

(b) procedures for removal of any remaining TENORM wastes and final disposal location;

(c) procedures for equipment removal, including any necessary equipment decontamination and remediation procedures and final disposal that is protective of human health and the environment;

(d) decommissioning of site buildings and appurtenances;

(e) a process for soil sampling and analysis to identify potential areas of soil contaminated as a result of site operations;

(f) excavation and removal or remediation of stained and/or contaminated soil, with confirmation sampling procedures and analysis, that is protective of human health and the environment;

(g) procedures for removal and disposal of contaminated soil; and

(h) proposed final closure date.

(3) Prior to the commencement of closure activities, the owner or operator of a licensed TENORM waste management system shall submit a Notification of Intent to Close to the department.

(4) Closure activities must be completed within 180 days of submittal of the Notification of Intent to Close.

(5) The owner or operator of a licensed TENORM waste management system shall comply with any other post-closure care requirements determined by the department to be necessary to protect human health or the environment.

(6) Design of the final cover for a licensed TENORM waste management system must ensure the dose from all TENORM radionuclides does not exceed 25 mrem/y at the facility boundary.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: Proposed NEW RULE X establishes closure and post-closure plan requirements for TENORM waste management systems to ensure protection of human health and the environment.

Proposed NEW RULE X(1) sets closure requirements in accordance with Class II facilities. Class II facilities are designed to include the most protective controls to ensure the continued protection of human health and the environment.

Proposed NEW RULE X(2) sets specific requirements for closure and post-closure plans specific to TENORM non-disposal waste management systems to ensure that closed TENORM waste management sites do not impair public health and the environment.

Proposed NEW RULE X(3) and (4) requires notification of the department of when the waste management system plans to close so the appropriate fees are assessed and a schedule can be set for the system to comply with the requirements in ARM Title 17, chapter 50, subchapter 14. ARM Title 17, chapter 50, subchapter 14 sets the time limit of 180 days based on typical timeframes for construction that is reasonable and achievable while protecting human health and the environment.

Proposed NEW RULE X(5) ensures post-closure requirements are met. The department is proposing NEW RULE X(6) in accordance with the recommendation in Tetra Tech's report "Development of TENORM Rules for the State of Montana" (December, 2016), that dose limits at reclaimed landfills shall not exceed 25 mrem/y in accordance with NRC's dose limit for facilities released for unrestricted use for landfill that accept TENORM.

NEW RULE XI FINANCIAL ASSURANCE (1) The owner or operator of a licensed TENORM waste management system shall comply with the requirements of ARM 17.50.540 for financial assurance.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: Proposed NEW RULE XI(1) sets necessary financial assurance requirements for TENORM waste disposal management systems to ensure protection of human health and the environment. The department is proposing to require compliance with ARM 17.50.540, which is modeled after the financial assurance mechanisms for municipal solid waste landfills found in 40 CFR 258. Proposed NEW RULE XI(1) provides sound mechanisms for ensuring TENORM waste disposal management systems have the financial means for proper operation and closure to protect human health and the environment.

NEW RULE XII TENORM SPILL REPORTING REQUIREMENTS (1) The transportation of TENORM waste is subject to the requirements of ARM 17.50.523. Persons who transport TENORM waste for the purpose of processing or disposal shall comply with the requirements of this rule.

(2) A person, or an authorized representative of that person, who spills TENORM waste, shall no later than 24 hours from the date of the incident or its discovery, report to the Montana Disaster and Emergency Services (DES) at (406) 324-4777 any spill of TENORM waste that meets the following criteria:

(a) the spilled materials have entered or may enter state water or a drainage that leads directly to surface water; or

(b) the spill is 25 gallons or more of liquid TENORM waste or one cubic yard or more of solid TENORM waste.

AUTH: 75-10-204, MCA
IMP: 75-10-204, MCA

REASON: Proposed NEW RULE XII(1) through (2) establishes the necessary spill reporting requirements for transporters of TENORM waste to ensure protection of human health and the environment.

Proposed NEW RULE XII(1) requires transporters of TENORM waste to cover and secure their loads and keep loads covered and secure while in transit in a manner that prevents discharge, dumping, spilling or leaking from the transport vehicle.

Proposed NEW RULE XII(2) provides sound mechanisms for ensuring transporters of TENORM waste report spills in a timely manner. Montana DES is the lead coordinator for comprehensive emergency management in Montana and provides quantifiable risk analysis and emergency response and recovery for communities.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Sandy Scherer, Legal Secretary, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to sscherer@mt.gov, no later than 5:00 p.m., October 18, 2017. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Sandy Scherer, Legal Secretary, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Sandy Scherer at sscherer@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

6. Jeni Garcin, Public Information Specialist for the Department of Environmental Quality, has been designated to preside over and conduct the hearing.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rules will not significantly and directly impact small businesses.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL QUALITY

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

BY: */s/* Tom Livers
TOM LIVERS, Director

Certified to the Secretary of State, August 7, 2017.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 23.16.101, 23.16.122, 23.16.202, 23.16.1703, 23.16.1705, 23.16.1823, and 23.16.2602 and the repeal of ARM 23.16.1803, 23.16.1805, and 23.16.1807 pertaining to loans to licensees from institutional and noninstitutional sources, use of checks and debit cards for certain gambling activities, prohibition on use of credit cards for gambling, sports pool wagers, and applications, fees and issuance of video gambling machine permits	)	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On September 7, 2017, at 1:30 p.m., the Department of Justice will hold a public hearing in the conference room of the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Justice, no later than 5:00 p.m. on September 1, 2017, to advise us of the nature of the accommodation that you need. Please contact Jean Saye, Department of Justice, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; or e-mail jsaye@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

23.16.101 DEFINITIONS (1) through (8)(a) remain the same.

(b) is identified as a regulated lender in 31-1-111, MCA, which, in addition to lenders identified in ~~(7)(a)~~(8)(a), includes bank holding companies, consumer loan licensees owned by bank holding companies, mutual or stock insurance companies, and federal and state agencies authorized to lend money.

(9) through (13) remain the same.

(14) "Noninstitutional lender" or "noninstitutional source" means:

(a) a person other than an institutional lender as defined in ~~(7)~~(8) of this rule; or

(b) remains the same.

(15) "Owner" or "owner of an interest" means a person with a right to share in the profits, losses, or liabilities of a gambling operation. The term "ownership interest" is synonymous with "owner" or "owner of an interest." ~~.~~ The term "owner" or "owner of an interest" does not include route operators with a right to share in proceeds from video gambling machines they have leased to location operators. "Owner" or "owner of an interest" includes:

(a) ~~loan~~ guarantors on a loan to a gambling licensee from a noninstitutional source who make actual debt payments ~~for or contribute capital to~~ on behalf of a gambling ~~operation~~ licensee:

(i) that are disclosed as capital contributions; or

(ii) that the department determines are not actual loans to the gambling licensee under ARM 23.16.122;

(b) coborrowers, guarantors, and pledgors of collateral on a loan to a gambling licensee from a regulated lender:

(i) who fail to meet the suitability requirements of 23-5-176, MCA; or

(ii) who fail to timely make complete disclosures of payments as required by 23-5-118, MCA;

(b) and (c) remain the same but are renumbered (c) and (d).

(16) through (21) remain the same.

AUTH: 23-5-115, 23-5-621, MCA
IMP: 23-5-112, 23-5-115, 23-5-118, 23-5-176, 23-5-629, 23-5-637, MCA

REASON: The division must amend this rule to conform to the 2017 Legislature's amendments to 23-5-118, MCA. Senate Bill 344 created an exception to the statute prohibiting transfers of an ownership interest in a gambling license prior to approval of the department. Under the former rule, in some circumstances, the division viewed payments by coborrowers, guarantors, or pledgors as evidence of a transfer of an ownership interest in a gambling license. The new legislation, SB 344, 2017 Laws of Montana Ch. 301, prohibits the department from viewing regulated lenders' commercial banking practices as possible transfers of an ownership interest as long as the coborrower, guarantor, and/or pledgor meet the division's standard suitability requirements found in 23-5-176, MCA, and the licensee complies with certain disclosures. Consequently, this rule must be amended to harmonize with the statute and provide direction on when the suitability investigation must occur and a method for making disclosures required by statute. Additionally, the division proposes to amend this rule to correct internal cross-references.

23.16.122 LOAN EVALUATION ~~- INSTITUTIONAL LENDER SECURITY INTERESTS~~ - GUARANTOR PAYMENTS (1) remains the same.

~~(2) Institutional lenders may secure loans made to a license applicant or licensee with security interests on assets belonging to the applicant or licensee. In securing the assets of a license applicant or licensee, an institutional lender may limit the movement of the assets, including a liquor license.~~

~~(3)~~(2) For loans made to a license applicant or licensee, ~~an institutional~~ a noninstitutional lender may require loan guarantees and may secure guarantee

agreements with assets of the guarantor. The license applicant or licensee must ensure the following requirements are met:

(a) guarantors must meet the requirements of 23-5-176, MCA, prior to closing the noninstitutional loan;

(b) a loan guarantor on a noninstitutional loan must within 90 days of the payment elect to treat payments made under a loan guarantee agreement as loans, paid in capital, or other equity contributions.

(i) If the guarantor elects to treat the payments as loans to the licensee, the licensee must follow requirements for disclosing noninstitutional lenders found in ARM 23.16.120(7).

(ii) If the guarantor elects to treat payments as an equity contribution, and such election changes the percentage of ownership in the license, an amended license application must be filed with the department at the time of the election to disclose the change.

~~(4) An institutional lender may require payment from loan guarantors without initially exhausting all remedies against the borrower under the following conditions:~~

~~(a) if the guarantor is an owner of the applicant/licensee, i.e., partner, shareholder, member, and payment is made with the owner/guarantor's own funds or funds borrowed from an institutional or division approved noninstitutional source;~~

~~(b) if the guarantor is not an owner, payment may only be made as a loan to the owners or licensed borrower/entity. Funds used to loan the money for the payment under the guarantee, must be the guarantor's own funds or funds borrowed from an institutional source. The guarantor must also be found suitable as a source of credit as part of the application or loan approval process by submitting a personal history statement (Form 10) and a complete set of fingerprints (Form FD-258).~~

(3) A gambling license applicant with a loan from a regulated lender, that was acquired prior to receiving a gambling license, must disclose that loan, including all coborrowers, guarantors, or pledgors, to the department in the application. Following that disclosure, the department must complete a suitability investigation under the requirements of 23-5-176, MCA, of all coborrowers, guarantors, or pledgors who are not an owner of the license. No coborrower, guarantor, or pledgor may make a payment on a gambling licensee's loan until the department has determined the payor meets the requirements of 23-5-176, MCA.

(4) A gambling licensee that acquires a loan from a regulated lender must disclose that loan, including all coborrowers, guarantors, or pledgors, no later than the first license renewal following the licensee's receipt of funds under the loan. Following that disclosure, the department must complete a suitability investigation under the requirements of 23-5-176, MCA, of all coborrowers, guarantors, or pledgors who are not an owner of the licensed entity. No coborrower, guarantor, or pledgor may make a payment on the licensee’s loan until the department has determined the payor meets the requirements of 23-5-176, MCA.

(5) A licensee with a loan from a regulated lender must, within 90 days of a coborrower's, guarantor's, or pledgor's payment on the loan, submit to the department on Form 45 all mandatory disclosures and related documentation.

~~(5) A loan guarantor must annually elect to treat payments made under a loan guarantee agreement as loans, paid in capital, or other equity contributions, as required by the Internal Revenue Code.~~

~~(a) If the guarantor elects to treat the payments as loans to the licensee, the licensee must follow requirements for disclosing noninstitutional lenders found in ARM 23.16.120(7).~~

~~(b) If the guarantor elects to treat payments as an equity contribution, and such election changes the percentage of ownership in the license, an amended license application must be filed with the department at the time of the election to disclose the change.~~

(6) A licensee participating as a coborrower, guarantor, or pledgor, in a nonlicensee's loan from a regulated lender, must disclose to the department that loan and all parties to the loan no later than the first license renewal following closing of the loan. Following that disclosure, each party to the loan must undergo a suitability investigation by the department under 23-5-176, MCA. The licensee may not make a payment on the borrower's loan until the department has determined all parties meet the requirements of 23-5-176, MCA.

(7) A licensee participating as a coborrower, guarantor, or pledgor, in a nonlicensee's loan from a regulated lender must, within 90 days of a making a payment on the borrower's loan, submit to the department on Form 45 all mandatory disclosures and related documentation.

AUTH: 23-5-115, MCA
IMP: 16-4-801, 23-5-110, 23-5-115, 23-5-118, 23-5-176, MCA

REASON: The division must amend this rule to conform to the 2017 Legislature's amendments to 23-5-118, MCA, contained in SB 344, 2017 Laws of Montana Ch. 301. That new law created a separate regulatory regimen for loans from "a regulated lender, as defined in 31-1-111, MCA." Those provisions on loans from "regulated lenders" overrule the department's rules on "institutional lenders." In addition to statutorily approving loans to gambling licensees whose collateral structure and documentation are consistent with commercial lending practices, SB 344 also allowed a gambling licensee to participate in a nongambling licensee's loan as a coborrower, guarantor, or pledgor. Formerly, one who shared in the profits, losses, or liabilities of a gambling licensee was, by rule, deemed an owner of an interest in that licensee. Under the new statute, gambling licensees may participate in a nonlicensee's loan which may not be viewed as an ownership interest. However, the division still has a statutory duty under 23-5-110, MCA, to ensure that gambling licensees are not controlled by or influenced by corrupt persons. That duty requires the division to evaluate loans to third parties involving a gambling licensee because it is foreseeable that one unsuitable to hold a gambling license in his or her own name could enjoy the profits of a gambling establishment by binding the licensee to the unsuitable party's institutional loan. The proposed rule conforms the division's treatment of institutional loans to the legislative changes while preserving the division's duty to maintain a gambling climate free of corrupting influences.

23.16.202 CREDIT PLAY PROHIBITED (1) Except as provided in (2), all gambling or gambling activity must be played on a cash basis. ~~All playing of games of chance must be on a cash basis.~~ No credit may be extended to any player.

Consideration to play a game of chance must be paid in full, in cash, in advance of any play.

(2) Players may tender, and sponsors or licensees may accept, payment by cash, check, electronic check (e-check), or debit card for entry in Calcutta pools as provided in 23-5-222, MCA, raffles as provided in 23-5-413, MCA, casino nights as provided in 23-5-702, MCA, and card games normally scored using points as provided in Title 23, chapter 5, part 3, MCA.

(2) remains the same but is renumbered (3).

(2)(a) remains the same but is renumbered (4).

(3) remains the same but is renumbered (5).

~~(4)~~(6) No licensee may accept credit cards for cash advances or the sale of items that may be redeemed for cash, such as gambling chips, money orders, checks, electronic checks (e-checks), vouchers, travelers' checks, wire transfers, or gift cards. The sum of a credit card transaction may not exceed the actual price charged for food, beverages, items offered for sale, tax where applicable, any service tip offered to and retained by the licensee's staff plus any credit card transaction fee charged the customer.

(5) and (6) remain the same, but are renumbered (7) and (8).

AUTH: 23-5-115, MCA
IMP: 23-5-115, 23-5-157, MCA

REASON: The division must amend this rule to conform to the 2017 Legislature's amendments to 23-5-157, MCA, which created an exception to the general prohibition on credit gambling. That legislation, SB 302, 2017 Laws of Montana Ch. 403, specifically allows players to enter Calcutta pools, raffle, casino nights, and limited card games by payments through cash, check, e-check, or debit card. The amended rule harmonizes with the new statutory exception.

23.16.1703 SALE OF SPORTS POOL CHANCES (1) The total cost of a chance shall not exceed ~~$25~~ $100 per sports event, or ~~$25~~ $100 per sports event for a series sports pool as described in ARM 23.16.1705(3)(b), and must be paid in full and in cash at the time the chance is selected.

(2) through (5) remain the same.

AUTH: 23-5-115, 23-5-512, MCA
IMP: 23-5-502, 23-5-503, 23-5-512, MCA

REASON: The division must amend this rule to conform to the 2017 Legislature's amendments to 23-5-503, MCA, which increased the maximum wager to purchase a chance to participate in a sports pool from $25 to $100 in any combination. That legislation, HB 564, 2017 Laws of Montana Ch. 273, created a $100 wager cap, necessitating a change to the portion of this rule which applied the former cap.

23.16.1705 AUTHORIZED SPORTS POOLS (1) through (3)(d)(ii) remain the same.

(iii) The pool must be designed so that the total of each participant's wager(s) does not exceed ~~$25~~ $100, the total value of all prizes equals the total of all wagers, and the total value of all prizes awarded does not exceed $2,500.

(iv) through (g) remain the same.

AUTH: 23-5-115, 23-5-512, MCA
IMP: 23-5-502, 23-5-503, 23-5-512, MCA

REASON: See rationale for amendments to ARM 23.16.1703.

23.16.1823 ~~PRORATION OF PERMIT FEE – RENEWAL~~ VIDEO GAMBLING PERMITS – ELIGIBILITY, APPLICATION, RENEWAL, PRORATION (1) A gambling operator is eligible to apply for video gambling machine permits only if the operator holds an appropriate alcoholic beverage license and:

(a) the restrictions of 23-5-629, MCA, do not apply; or

(b) the restrictions of 23-5-629, MCA, apply, and

(i) the department receives a written application from both common owners that provides revocable consent for a single common owner to apply for video gambling machine permits exclusive of the other; or

(ii) the operators are common owners, as defined in 23-5-629, MCA, but do not, in fact, operate in an interrelated manner as defined in (2) of this rule.

(2) Operators subject to the restrictions of 23-5-629, MCA, operate in an interrelated manner when they are common owners, as defined in 23-5-629, MCA, and the common owners operate the licensed businesses for their mutual or individual advantage, gain, or convenience. Operators meeting one or more of the definitions of "common owner" in 23-5-629, MCA, are presumed to operate in an interrelated manner and are presumed ineligible for video gambling permits. The presumption that operators subject to the restrictions of 23-5-629, MCA, are operating in an interrelated manner may be rebutted by the operators' submission to the department of evidence that they do not, in fact, operate in an interrelated manner. An operator applying for permits under this rule must:

(a) submit such evidence prior to applying for a video gambling machine permit;

(b) prove by a preponderance of the evidence that they do not operate in an interrelated manner; and

(c) submit any challenges to the department's intended action on such applications as outlined in ARM 23.16.203.

(3) An eligible gambling operator or machine owner must submit a completed video gambling machine permit application (Form 8) for each machine to be permitted. An application is not complete unless:

(a) it contains all information and statements required by Form 8; and

(b) it includes the permit fee required by 23-5-612, MCA.

(4) A permit fee is not refundable after the department issues the permit except:

(a) the department must refund a permit fee if the permit application is withdrawn before issuance or if the department denies the permit; or

(b) when the applicant demonstrates the permit application was the result of an inadvertent input error and the erroneously permitted machine was not placed in service.

(1) remains the same but is renumbered (5).

(6) Video gambling machine permit renewals and fees must be submitted to the department prior to June 30 of the current license year.

~~(2) When applying for a video gambling machine permit, a licensed gambling operator shall indicate on the permit application the calendar quarters that he intends to operate the machine.~~

~~(3) An application for renewing a permit must be submitted to the Gambling Control Division of the department upon forms prescribed by the department, the permit fee paid, and a new gambling operator license issued which lists the machine for which the permit is issued before a previously permitted machine may be operated after midnight on June 30.~~

~~(4) Video gambling machine permits may not be issued to a licensee whose premises are subject to the common ownership restriction contained in 23-5-629, MCA, unless the department receives written application from the common owners that provides written consent and authorization to permit the video gambling machines at one of the identified locations under common ownership.~~

~~(5) Licensees whose premises are subject to the common ownership restriction contained in 23-5-629, MCA, but who are authorized to receive permits until September 30, 2005, may upon application receive temporary video gambling machine permits that will expire on September 30, 2005. Upon or prior to expiration of the temporary permits, the licensee shall file a letter of withdrawal and quarterly report for each video gambling machine as required by law. The department shall only charge a final-quarter fee (e.g., April 1 through June 30) for such temporary permits.~~

~~(6)~~(7) The department may consider the same criteria for renewal of permits as for the original issuance of a permit. Failure to satisfy the permit criteria contained in the act and these rules may result in denial of renewal of the permit.

(8) Upon approval of a permit application, the department will issue a new gambling operator license listing all renewed or newly permitted machines. A gambling operator may not place a machine in service before receiving the updated gambling operator license.

AUTH: 23-5-115, 23-5-621, MCA
IMP: 23-5-602, 23-5-611, 23-5-612, 23-5-621, 23-5-629, MCA

REASON: This rule amendment is necessary following passage of SB 25, 2017 Laws of Montana Ch. 276, which amended 23-5-629, MCA, the gambling establishment "stacking law." The stacking law was enacted to prevent gambling operators from coordinating to circumvent the 20-video gambling machine per location limit. 23-5-611(3), MCA. Formerly, the stacking law disallowed video gambling machine permits to all licensed operators whose premises were located within 150 feet of each other and who were "common owners" as defined in statute. Following its amendment, the stacking law only applies to licensees if they are "common owners" and, in fact, operate in an "interrelated manner." The statutory

amendment specifically directed the department to promulgate a rule that defines the new term – operating in an "interrelated manner."

The department proposes to amend this rule in other respects to improve its clarity and readability. Additionally, the department proposes to amend this rule to combine other somewhat repetitive video gambling permitting rules into a single all-encompassing rule. ARM 23.16.1803, 23.16.1805, and 23.16.1807 pertain to video gambling machine permitting and contain overlapping concepts. For ease of reference, the department proposes to repeal ARM 23.16.1803, 23.16.1805, and 23.16.1807 and incorporate necessary provisions into ARM 23.16.1823. With the amendments, just one rule will define who is eligible for permits, how to apply for permits, the schedule for prorating permit fees, and the method to renew permits.

23.16.2602 RAFFLE GENERAL REQUIREMENTS, AUTHORIZED RANDOM SELECTION PROCESSES, AND RECORD KEEPING REQUIREMENTS

(1) A raffle sponsor must make all raffle terms available to the public prior to the sale of any raffle tickets. In all cases a raffle sponsor must establish and make available the date of the raffle drawing. Other raffle terms may include:

(a) the name and contact information of the raffle sponsor;

(b) persons eligible or ineligible to purchase tickets;

(c) locations where sales are known to be prohibited;

(d) cost of raffle tickets;

(e) a complete description of the prize(s) and its value;

(f) an estimated number of tickets to be sold which may be unlimited;

(g) the date ticket sales close; and

(h) the method of drawing winning ticket(s).

(1) and (2) remain the same but are renumbered (2) and (3).

(4) Prior to conducting a raffle on the internet, a nonprofit organization must first complete a one-time registration form (Form 46) supplied by the department.

(5) A raffle sponsor's challenge to the department's intended action to refuse registration as a nonprofit must proceed under ARM 23.16.203.

(3) remains the same but is renumbered (6).

~~(4) All raffle terms, including the date of the raffle drawing, must be available to the public prior to the sale of any raffle tickets.~~

(7) For any violation of this rule, the department may pursue remedies available under 23-5-136, MCA.

AUTH: 23-5-115, 23-5-413, MCA
IMP: 23-5-112, 23-5-413, MCA

REASON: This rule is necessary following passage of SB 25, 2017 Laws of Montana Ch. 276, which created an exemption from the general prohibition against internet gambling. That law excludes "registered" nonprofit organizations' raffles from the definition of internet gambling and expressly permits nonprofit organizations to sell raffle tickets over the internet. Formerly, internet gambling was unlawful as an illegal gambling enterprise. With this statutory change, however, registered nonprofit organizations may now sell raffle tickets over the internet. A rule amendment is necessary to create a registration process and an administrative procedure should

the department find an organization ineligible for the nonprofit organization exemption.

Montana law previously required raffle announcements and advertisements posted on the internet to include "all raffle terms." 23-5-413, MCA. The regulation mirrored that statutory requirement, but did not define minimum "raffle terms." With nonprofit organizations' entry into a greatly expanded market through internet raffle sales, the public interest is served by advising participants of the rules and management of the raffle.

Internet raffles are restricted to registered nonprofit organizations. Any other organization offering an internet raffle in Montana may be sanctioned. This rule is necessary to advise raffle promoters of the possibility of sanction for such a violation.

4. The department proposes to repeal the following rules:

23.16.1803 APPLICATION FOR PERMIT, FEE, AND PERMIT REQUIREMENTS

AUTH: 23-5-115, 23-5-621, MCA
IMP: 23-5-602, 23-5-611, 23-5-612, 23-5-621, 23-5-637, MCA

23.16.1805 REFUND OF PERMIT FEE

AUTH: 23-5-115, MCA
IMP: 23-5-612, MCA

23.16.1807 ISSUANCE OF VIDEO GAMBLING MACHINE PERMIT

AUTH: 23-5-115, 23-5-605, 23-5-621, MCA
IMP: 23-5-603, 23-5-605, 23-5-611, 23-5-612, 23-5-621, 23-5-637, MCA

REASON: The division proposes to repeal these rules to consolidate video gambling machine permit regulations into a single, compact, and understandable rule – ARM 23.16.1823. Each of these rules touches an aspect of video gambling machine permitting. Passage of SB 25, 2017 Laws of Montana Ch. 276, which amended 23-5-629, MCA, the gambling establishment "stacking law," compelled the division to amend ARM 23.16.1823, also pertaining to permitting. As amended, ARM 23.16.1823 makes specific reference to mandatory use of department Form 8, specifying the requirements for a permit application. Application details and procedures set out in these several rules are now condensed into just one rule and a step-by-step form. Consequently, these rules are no longer necessary.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Michael L. Fanning, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157 or e-mail j.saye@mt.gov and must be received no later than 5:00 p.m., September 15, 2017.

6. Michael L. Fanning, Department of Justice, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 5 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted by United States Post and e-mail on July 10, 2017.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Matthew Cochenour
Matthew Cochenour
Rule Reviewer

/s/ Timothy C. Fox
Timothy C. Fox
Attorney General
Department of Justice

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 24.29.1591 related to utilization and treatment guidelines for workers' compensation injuries	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 8, 2017, at 9:00 a.m., the Department of Labor and Industry (department) will hold a public hearing in the basement auditorium of the Sanders Building (DPHHS building), 111 North Sanders Street, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on September 1, 2017, to advise us of the nature of the accommodation that you need. Please contact the Department of Labor and Industry, Attn: Maralyn Lytle, Employment Relations Division, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-6604; fax (406) 444-4140; Montana TTD (406) 444-5549; or e-mail mlytle@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

24.29.1591 UTILIZATION AND TREATMENT GUIDELINES (1) through (1)(b) remain the same.

(c) for medical services provided ~~on or after~~ July 1, 2015 through December 31, 2016: "Montana Utilization and Treatment Guidelines, 3rd edition, 2015"; ~~and~~

(d) for medical services provided ~~on or after~~ January 1, 2017 through December 31, 2017: "Montana Utilization and Treatment Guidelines, 4th edition, 2016~~.~~"; and

(e) for medical services provided on or after January 1, 2018: "Montana Utilization and Treatment Guidelines, 5th edition, 2017."

(2) The Montana Guidelines consist of the following nine chapters and General Guideline Principles which are included at the beginning of each chapter:

(a) through (f) remain the same.

(g) Complex ~~Chronic~~ Pain Disorder;

(h) through (5) remain the same.

AUTH: 39-71-203, 39-71-704, MCA
IMP: 39-71-704, MCA

REASONABLE NECESSITY: There is reasonable necessity to update the Montana Utilization and Treatment Guidelines to incorporate the changes to the lower

extremities treatment guidelines which have recently been developed by the state of Montana. These updates are part of the annual review and update process for the Utilization and Treatment Guidelines. The updated guidelines have been reviewed by the department's advisory medical providers group, and their comments have been taken into account by the department.

4. A copy of the proposed 2017 publication identified as the "Montana Utilization and Treatment Guidelines, 5th edition, 2017" is available and can be accessed at: www.mtguidelines.com. A printed version of the proposed 2017 publication is also available by contacting Maralyn Lytle at the address, e-mail, or telephone numbers listed in paragraph 2 of this notice.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Maralyn Lytle, Employment Relations Division, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-6604; fax (406) 444-4140; Montana TTD (406) 444-5549; or e-mail mlytle@mt.gov, and must be received no later than 5:00 p.m., on October 6, 2017.

6. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1315 E. Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Mark Cadwallder	/s/ Pam Bucy
Mark Cadwallader	Pam Bucy, Commissioner
Alternate Rule Reviewer	DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 7, 2017.

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.121.601 licensure by examination, 24.121.805 school operating standards, 24.121.807 school curricula, and 24.121.808 credited hours for Montana-licensed individuals in a cosmetology or barbering program	)))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 8, 2017, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Barbers and Cosmetologists (board) no later than 5:00 p.m., on September 1, 2017, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdcos@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2017 Montana Legislature enacted Chapter 260, Laws of 2017 (House Bill 393), an act revising the curriculum hours for schools of barbering and cosmetology. The bill was signed by the Governor on May 3, 2017, and will become effective October 1, 2017. The board determined it is reasonably necessary to amend certain existing rules to coincide with the 2017 legislative changes and implement the bill by reducing hours of training required for licensure, and the hours each school must spend training students in specific curriculum areas. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

4. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.121.601 LICENSURE BY EXAMINATION (1) and (2) remain the same.

(3) To qualify for licensure by examination, the applicant must submit the following:

(a) For a barber license:

(i) remains the same.

(ii) proof of graduation from an approved school or course of barbering with at least ~~1,500~~ 1100 hours of training as provided in ARM 24.121.604; or, if a Montana-licensed cosmetologist, completion of a supplemental barbering course pursuant to ARM 24.121.808;

(iii) and (iv) remain the same.

(b) For a barber nonchemical license:

(i) remains the same.

(ii) proof of graduation from an approved school or course of barbering with at least ~~1000~~ 900 hours of training as provided in ARM 24.121.604(3);

(iii) and (iv) remain the same.

(c) For a cosmetology license:

(i) remains the same.

(ii) proof of graduation from an approved school or course of cosmetology with at least ~~2,000~~ 1500 hours of training as provided in ARM 24.121.604;

(iii) through (6) remain the same.

AUTH: 37-1-131, 37-31-203, MCA
IMP: 37-1-131, 37-31-303, 37-31-304, 37-31-308, MCA

24.121.805 SCHOOL OPERATING STANDARDS (1) through (7) remain the same.

(8) Appropriately licensed instructors shall directly supervise students at all times on the school premises in the classroom and on the clinic floor. One instructor shall supervise no more than 25 cosmetology, barbering, esthetics, or manicuring students, and no more than ten electrology students, at any time on the clinic floor. No instructor may supervise classroom and clinic floor activities simultaneously.

(9) through (16) remain the same.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA
IMP: 37-31-311, MCA

REASON: The board concluded that House Bill 393's reduction in the number of hours required for Montana licensure could affect a school's ability to hire and retain qualified instructors. The board further determined that, while adequate supervision of students is necessary on the clinic floor, such supervision concerns do not apply to a classroom teaching setting. As such, the board is amending this rule to clarify that the 25 students per instructor supervision ratio applies to activities on the clinic floor, but not to classroom teaching activities.

24.121.807 SCHOOL CURRICULA (1) remains the same.

(2) The required curriculum for barbering students is as follows:

(a) ~~1500~~ 1100 hours of training, of which at least 150 hours is in theory, distributed as follows:

(i) haircutting (including proper use of implements, e.g., shears, razors, clippers, thinning shears), ~~250~~ 185 hours;

(ii) shampoo, scalp treatment, and hair styling (thermal and air styling, hair pieces to include weaves and extensions), ~~230~~ 165 hours;

(iii) skin care (including facial shaving, facials, massage, essential oils, facial masks), ~~60~~ 45 hours;

(iv) chemical services (waving, relaxing, hair coloring, and lightening), ~~400~~ 295 hours;

(v) chemistry, bacteriology, sanitation, sterilization, safety, skin, hair, and scalp anatomy, physiology, blood spill procedure, and diseases and disorders of skin, hair, and scalp, ~~85~~ 60 hours; and

(vi) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming, ~~100~~ 75 hours.

(b) ~~375~~ 275 hours of instruction shall be at the discretion of the school, provided that the hours are within the applicable curriculum.

(3) The required curriculum for barbering nonchemical students is as follows:

(a) ~~1000~~ 900 hours of training, of which at least 100 hours is in theory, distributed as follows:

(i) haircutting (including proper use of implements, e.g., shears, razors, clippers, and thinning shears), ~~250~~ 225 hours;

(ii) shampoo, scalp treatment, and hair styling (thermal and air styling, and hair pieces to include weaves and extensions), ~~230~~ 205 hours;

(iii) skin care (including facial shaving, facials, massage, essential oils, and facial masks), ~~60~~ 55 hours;

(iv) chemistry, bacteriology, sanitation, sterilization, safety, skin, hair, and scalp anatomy, physiology, blood spill procedure, and diseases and disorders of skin, hair, and scalp, ~~85~~ 75 hours; and

(v) shop management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, current state board laws and rules, business ethics, and personal grooming, ~~100~~ 90 hours.

(b) ~~275~~ 250 hours of instruction shall be at the discretion of the school, provided that the hours are within the applicable curriculum.

(4) The required curriculum for cosmetology students is as follows:

(a) ~~2000~~ 1500 hours of training, of which at least 200 hours is in theory, distributed as follows:

(i) manicuring, ~~125~~ 95 hours to include:

(A) through (D) remain the same.

(ii) esthetics, ~~150~~ 110 hours to include:

(A) through (D) remain the same.

(iii) shampoo (including scalp treatment), hair styling (pin curls, finger waving, thermal curling, blow dry styling, braiding, back combing, and wet setting), ~~260~~ 195 hours;

(iv) chemical services (waving, relaxing (ammonium thioglycolate, sodium hydroxide methods), hair coloring, and hair lightening), ~~530~~ 395 hours;

(v) hair cutting (including the proper uses of implements, e.g., shears, razors, clippers, thinning shears), ~~205~~ 155 hours;

(vi) salon management, general facility sanitation and cleanliness, business methods, customer service, appointment book, professional ethics, and current state board laws and rules, ~~150~~ 115 hours; and

(vii) chemistry, bacteriology, sanitation, sterilization, safety, anatomy, physiology, blood spill procedure, and diseases and disorders of hair, scalp, skin, and nails, ~~80~~ 60 hours.

(b) ~~500~~ 375 hours of instruction shall be at the discretion of the school, provided that the hours are within the applicable curriculum.

(5) through (8) remain the same.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA
IMP: 37-1-131, 37-31-101, 37-31-304, 37-31-305, 37-31-311, MCA

24.121.808 CREDITED HOURS FOR MONTANA-LICENSED INDIVIDUALS IN A COSMETOLOGY OR BARBERING PROGRAM (1) A Montana licensee will receive the following credit of hours towards course requirements upon enrollment in a cosmetology course in Montana:

(a) licensed barber ~~1500~~ 1000 hours;

(b) licensed barber nonchemical ~~1000~~ 900 hours;

(c) remains the same.

(d) licensed manicurist ~~200~~ 150 hours; or

(e) licensed esthetician ~~325~~ 245 hours of credit will be given towards the cosmetology course.

(2) remains the same.

AUTH: 37-1-131, 37-31-203, 37-31-304, MCA
IMP: 37-1-131, 37-31-203, 37-31-304, MCA

REASON: The board is amending (1)(a) and (b) to reduce the credit hours licensees receive upon enrolling in a cosmetology course to align with House Bill 393's reduction in training hours for barber or barber nonchemical licensure. The board is also proportionately reducing the credit hours in (1)(d) and (e) to align with the bill's reduction in training hours for cosmetology licensure.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdcos@mt.gov, and must be received no later than 5:00 p.m., September 15, 2017.

6. An electronic copy of this notice of public hearing is available at www.cosmetology.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have

their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdcos@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on July 26, 2017, by telephone.

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.121.601, 24.121.805. 24.121.807, and 24.121.808 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; facsimile (406) 841-2305; or to dlibsdcos@mt.gov.

10. Dylan Gallagher, attorney, has been designated to preside over and conduct this hearing.

BOARD OF BARBERS AND COSMETOLOGISTS
ANGELA PRINTZ
VICE CHAIRPERSON/ACTING CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 38.5.3401, 38.5.3403, and 38.5.3405, the adoption of NEW RULE I, and the repeal of ARM 38.5.3414 pertaining to operator service provider rules.	))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT, ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On September 19, 2017, at 1:30 p.m., the Department of Public Service Regulation will hold a public hearing in the Bollinger Room, 1701 Prospect Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Public Service Regulation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Service Regulation no later than 5:00 p.m. on September 12, 2017, to advise us of the nature of the accommodation that you need. Please contact Justin Kraske, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6376; fax (406) 444-7618; TDD/Montana Relay Service (406) 444-4212; or e-mail jkraske@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

38.5.3401 DEFINITIONS (1) remains the same.

(2) Except as context may otherwise demand, terms used in these rules have the following meanings:

(a) "Call blocking" means prohibiting or restricting a ~~consumer's~~ customer's access to a carrier which offers service in the same local exchange area by means of equal access or an access code, including but not limited to 1-800, 950-XXXX, and 10-10XXX-0+ dialing sequences.

~~(b) "Call splashing" means the transfer of a telephone call from an operator service provider to another operator service provider or carrier in such a manner that the subsequent provider or carrier is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness is prevented from billing the call on the basis of such location.~~

(~~c~~b) "Inmate operator service provider" means a carrier or operator service provider that provides regulated telecommunications services for the use of inmates in correctional facilities.

(~~d~~c) "Operator service provider" means any person, company, or entity that provides automated or live assistance to a customer to arrange for billing or completion, or both, of an intrastate telephone call through a method other than:

(i) and (ii) remain the same.

AUTH: 69-3-103, 69-3-822, 69-3-1103, MCA
IMP: 69-3-102, 69-3-201, 69-3-802, 69-3-1102, 69-3-1103, MCA

REASON: Amendment of ARM 38.5.3401 is necessary to allow the department to remove the definition for call splashing and use the word "customer" consistently throughout. The commission has not received complaints about call splashing and a definition for it is no longer necessary as the commission proposes to repeal the call splashing rule.

38.5.3403 ALLOWABLE RATE (1) Pursuant to 69-3-1102 and 69-3-1105, MCA, any operator service provider may not charge more than an allowable rate, which is a rate for intrastate calls, inclusive of the call rate, aggregator surcharge, and all other calling fees, established by the commission for each category and type of service provided by an operator service provider.

(2) Except for cost-based allowable rates provided in ARM 38.5.3404 and the rates defined in HB 426, 2017 Laws of Montana Chapter 262, the allowable rate ~~for each category and type of service provided by operator service providers will be established by the commission annually. The allowable rate for each category and type of service will be the average of the intrastate rates charged for each category and type of operator service provider service by AT&T, MCI, and CenturyLink, plus 50%.~~ that may be charged by an inmate operator service provider for intrastate call services shall not exceed the rate established for the same interstate service for inmate calling services as defined in 47 C.F.R. sections 64.6000 through 64.6110.

(3) Except for cost-based allowable rates provided in ARM 38.5.3404, the allowable rate that may be charged by any other operator service provider not defined in (2) for intrastate calls shall not exceed the rates contained in the following table:

[This new table is proposed to be added to new (3).]

OSP CALL CATEGORY	MAXIMUM RATE ($/call)
Operator dialed calling card	$4.03
Collect call	$4.63
Third-party billed	$4.64
Person-to-Person	$7.66
Operator-dialed called number (surcharge)	$2.81
Customer-dialed calling card, non-company card	$1.78
OPERATOR SERVICE PROVIDER TOLL	**MAXIMUM RATE ($/minute)**
Per-minute rate	$0.67

~~(3) The categories and types of service for which allowable rates will be established are:~~

~~(a) assisted calls including operator dialed calling card; collect call; third party billed; person to person; operator dialed called number; and customer dialed calling card, non-company;~~

~~(b) message telecommunications service interLATA calls per minute (if the operator service provider has more than one per minute rate, e.g., distance, time of day, and so forth, "per minute" will be the average per minute); and~~

~~(c) message telecommunications service intraLATA calls per minute (if the operator service provider has more than one per minute rate, e.g., distance, time of day, and so forth, "per minute" will be the average per minute).~~

(4) Operator service providers with existing contracts shall be permitted to continue those contracts through the end of the contract term.

~~(4)~~(5) Before an operator service provider may provide a service not identified in this rule, a cost-based allowable rate must be established for that service in accordance with ARM 38.5.3404.

AUTH: 69-3-103, 69-3-1103, MCA
IMP: 69-3-201, 69-3-1101, 69-3-1102, 69-3-1105, MCA

REASON: Amendment of ARM 38.5.3403 is necessary to allow the department to update the commission's allowable rate rules for operator service providers. The current rule requires the commission to calculate rate caps by averaging the rates of three operator service providers and adding 50% to establish the rate caps. Over time several providers have stopped providing that operator service and only one provider remains. Therefore the rules are non-operational and the commission temporarily set the caps at the prior rates until rulemaking could be completed. The commission proposes to establish rate caps for non-inmate operator service provider calls as set out in the table in ARM 38.5.3403. The Legislature has passed HB 426 in the 2017 session and it was signed into law. HB 426 sets rate caps for state prisons, which is a subsegment of inmate calls. This law does not address local correction facilities. The commission has conducted research on operator service provider caps in other states that regulate these rates. The commission has also reviewed material on the various telecommunications rates across Montana and operator service provider rates in other states. Based on this research the commission proposes to establish intrastate rates consistent with 47 C.F.R. sections 64.6000 through 64.6110. The federal government has established rates on an interim basis for interstate operator service provider calls in the Code of Federal Regulations cited here. Intrastate service should be less costly for a telecommunications carrier to provide than interstate service which can be far distances across multiple states. The commission has also received complaints about inmate calling rates in the past. Finally when the commission initiated its investigation on operator service provider rates prior to this rulemaking it received comments from both customers and operator service providers. The commission has proposed this rule amendment in response to some of the comments it has received.

38.5.3405 GENERAL REQUIREMENTS (1) remains the same.

(2) All operator service providers must connect the ~~consumer~~ customer to the local exchange company operator or explain dialing instructions for such access upon request and at no charge.

(3) remains the same.

AUTH: 69-3-103, 69-3-822, 69-3-1103, MCA
IMP: 69-3-102, 69-3-201, 69-3-802, 69-3-1104, MCA

REASON: Amendment of ARM 38.5.3405 is necessary to allow the department to use the word "customer" consistently throughout.

4. The department proposes to adopt the following rule:

NEW RULE I INVESTIGATIONS, AUDITS, AND REPORTING (1) The commission may conduct investigations and audits of any or all operator service providers in Montana.

(2) The commission may require reporting by any or all operator service providers in Montana. Upon commission notification, operator service providers shall submit reports to the commission in a format prescribed by the commission, which may require affidavits in support.

AUTH: 69-3-103, 69-3-822, 69-3-1103, MCA
IMP: 69-3-102, 69-3-201, 69-3-802, 69-3-1101, 69-3-1105, 69-3-1106, MCA

REASON: The adoption of NEW RULE I is necessary to allow the commission to investigate and audit operator service providers in Montana, as necessary. The commission requires these auditing and investigatory functions in order to ensure that rates are not exorbitant as required by statute. The commission has found it is very difficult to set allowable rates unless it is able to formally request information from operator service providers including call volumes, rates, services, and contracts. The operator service provider has the right to file a request for protective order for information filed with the commission. The commission will process those requests consistent with statutory authority and administrative rules.

5. The department proposes to repeal the following rule:

38.5.3414 CALL SPLASHING PROHIBITED

AUTH: 69-3-103, 69-3-822, MCA
IMP: 69-3-102, 69-3-201, 69-3-802, MCA

REASON: Repeal of ARM 38.5.3414 is necessary as the commission has not received complaints about call splashing. Call splashing appears to be a very unlikely issue as telephone technology has changed. Therefore a rule is no longer necessary.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Justin Kraske, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-6376; or e-mail jkraske@mt.gov, and must be received no later than 5:00 p.m., September 21, 2017.

7. The commission, a commissioner, or a duly appointed presiding officer may preside over and conduct the hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and the primary sponsor of the bill was contacted by phone on August 7, 2017.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment, adoption, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ JUSTIN KRASKE
Justin Kraske
Rule Reviewer

/s/ BRAD JOHNSON
Brad Johnson
Chairman
Department of Public Service Regulation

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 42.20.173, 42.20.454, and 42.20.455 pertaining to deadlines for classification and appraisal reviews and consideration of sales price and fee appraisals as market value indicators	)))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 11, 2017, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor East PAD Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 31, 2017, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.20.173 STATUTORY ~~DEADLINE~~ DEADLINES FOR REQUESTS FOR INFORMAL CLASSIFICATION AND APPRAISAL REVIEWS, FORM AB-26 (1) The ~~reappraisal cycle~~ valuation cycles for class three~~,~~ ~~and class~~ four, and ten property ~~is~~ are ~~January 1, 2017, through December 31, 2018~~ provided in 15-7-111, MCA. The department will accept ~~requests for informal classification and appraisal reviews~~ Requests for Informal Classification and Appraisal Reviews, ~~(~~Form AB-26~~)~~, for ~~class three and class four property for tax years 2017 and 2018~~ both years of the two-year valuation cycle for class three and four property and for all six years of the valuation cycle for class ten property.

~~(2) The reappraisal cycle for class ten property is January 1, 2015 through December 31, 2020. The department will accept Form AB-26 requests for class ten property for tax years 2015 through 2020.~~

~~(3)~~(2) ~~A property taxpayer who is~~ Class three and four property taxpayers dissatisfied with ~~their property's~~ the department's appraised value of their property may submit a Form AB-26 one time per ~~reappraisal~~ valuation cycle. ~~The~~ To be considered for both years of the two-year valuation cycle, the Form AB-26 must be submitted to the local department office in the county in which the property is located

within 30 days ~~after~~ from the date on the classification and appraisal notice ~~to be considered for the current tax year~~.

~~(4)~~(3) ~~For taxpayers who do not file within 30 days after the date on the classification and appraisal notice, the informal review will be considered for the following~~ If taxpayers of class three or four property miss the 30-day deadline in (2), they may object to the department's appraised value of their property for the second year of the valuation cycle by submitting a completed Form AB-26 by June 1 of the second year.

(4) Class ten property taxpayers dissatisfied with the department's appraised value of their property may submit a Form AB-26 one time per valuation cycle. To be considered for all years of the six-year valuation cycle, the Form AB-26 must be submitted to the local department office in the county in which the property is located within 30 days from the date on the classification and appraisal notice.

(5) If taxpayers of class ten property miss the 30-day deadline in (4), they may object to the department's appraised value of their property for any remaining years of the six-year valuation cycle by submitting a completed Form AB-26 by June 1 of any subsequent year of the valuation cycle.

~~(5)~~(6) There will be no retroactive adjustments to the taxable value for prior years. Any adjustments to taxable value will be ~~reflected only~~ applied in the tax year for which the Form AB-26 was timely filed and ~~ensuing years~~ for the remaining year(s) of the valuation cycle. ~~There will be no retroactive adjustments to the taxable value for years prior to the accepted filing date~~ If the property taxpayer submits a Form AB-26 after June 1 of the last year of the valuation cycle, their request shall be deemed untimely with the department.

~~(6)~~(7) Taxpayers may file a Form AB-26 in any year of a ~~reappraisal~~ valuation cycle, but only one time during the cycle, unless ~~the department determines that~~ a new classification and appraisal notice is generated due to a change in property ownership, classification, or value ~~occurred and the taxpayer receives a new classification and appraisal notice during the cycle~~. Taxpayers will then have 30 days from the date on the new classification and appraisal notice to submit a completed Form AB-26.

~~(7)~~(8) ~~The department will deny a property owner's Form AB-26 request if no response to the department's final written request to either schedule an appointment or provide additional documentation is received within 15 working days from the date on the request. The final written request will only occur after the department has attempted to contact the property owner several times either by telephone, by e-mail, or with a property site visit. The letter denying the taxpayer's Form AB-26 request will inform the property owner that they may appeal the department's decision to the county tax appeal board and that if they fail to respond to the department's denial they may lose their right to appeal.~~ During the informal review process, department staff may attempt to contact the property owner by telephone, email, and/or a property site visit to schedule an appointment or request additional documentation. If attempts to contact the property owner are unsuccessful, department staff will send a written request to the taxpayer who will then have 15 business days from the date on the letter to respond. If the taxpayer does not contact the department within the allowed 15 business days, the department will deny the Form AB-26 and send a determination letter to the taxpayer.

AUTH: 15-1-201, MCA
IMP: 15-7-102, 15-7-110, 15-7-111, MCA

REASON: The department proposes amending ARM 42.20.173 based on the passage of House Bill (HB) 43, L. 2017, which authorized an informal review deadline for subsequent remaining year(s) in property valuation cycles; and to update terminology, adapt the rule to multiple classes of property and valuation cycles, fix grammatical errors, remove passive language, add helpful detail, and improve the order of the rule content.

The department proposes updating the rule title to properly name and refer to the Form AB-26 and to make it clear that the rule now addresses multiple deadlines. The department also proposes replacing the word "reappraisal" with "valuation," as appropriate throughout the rule, to be consistent with this change in 15-7-102, MCA, by HB 43.

Sections (1) and (2) are proposed to be collapsed together to reduce redundancy. The department also proposes adding a reference to 15-7-111, MCA, into the revised section to identify the location of property valuation cycle information, and removing all calendar year references from the rule because they are unnecessary. Removing the years will eliminate the need for the department to make cyclical amendments to the rule.

Because class three and four property are on a two-year valuation cycle and class ten property is on a six-year valuation cycle, yet both valuation cycles are addressed in this rule, the department proposes separating the language pertaining to each class into sections, where necessary, for clarity. The proposed changes to the remaining sections of the rule are as follows.

The department proposes revising the language in newly numbered (2) to identify the section as applying specifically to class three and four property taxpayers on a two-year valuation cycle who are dissatisfied with the department's appraised value of their property. The revised section provides the deadline for submitting a Form AB-26 to be considered for both years of the two-year valuation cycle. Also, as revised, the word "after" is being replaced with "from," to be consistent with the language in HB 43, and the information pertaining to the timing for applications to be considered for the current tax year is relocated to the beginning of the sentence for clarity and emphasis.

In newly numbered (3), the department proposes striking the existing language and replacing it with a more direct, detailed statement specific to class three and four property and providing the June 1 filing deadline for second year valuation review requests, as enacted by HB 43.

The department proposes adding new (4) to provide a section applying specifically to class ten property taxpayers on a six-year valuation cycle who are dissatisfied with the department's appraised value of their property. This new section provides the deadline for submitting a Form AB-26 to be considered for all six years of the six-year valuation cycle.

The department further proposes adding new (5), specific to class ten property, to provide the annual deadline for submitting a Form AB-26 if the 30-day deadline is missed at the beginning of the six-year valuation cycle.

The last three sections of the rule apply to both valuation cycles. In newly numbered (6), the department proposes reversing the order of the content to place the original second sentence at the beginning of the section to emphasize that adjustments to taxable values do not apply retroactively. The department further proposes adding language in this section to make it clear that Form AB-26 requests that are submitted after June 1 in the last year of a valuation cycle will be considered untimely.

The department also proposes revising the content of newly numbered (7) to include more detail specific to how the 30-day deadline applies when the department generates a new classification and appraisal notice, for cause.

And finally, the department proposes rewording newly numbered (8) to make it shorter and easier to follow. As proposed to be revised, the language still explains the steps the department will take to contact the taxpayer, the timeline that will be followed, and what happens if the department's efforts to reach the taxpayer are unsuccessful, but in a more orderly manner.

42.20.454 CONSIDERATION OF SALES PRICE AS AN INDICATION OF MARKET VALUE (1) When considering any objection to the appraisal of property, the department may consider the actual selling price of the property as evidence of the market value of the property. For the actual selling price to be considered, a taxpayer or the taxpayer's agent must:

(a) submit a completed Request for Informal Classification and Appraisal Review, ~~(~~Form AB-26~~)~~, as set forth in ARM 42.20.173, to the local department office in the county where the property is located ~~situated within 30 days after the date on the classification and appraisal notice~~;

(b) and (c) remain the same.

(d) provide a signed affidavit completed by at least one party or person who is not the buyer or seller and that identifies the conditions, terms, and ~~sale~~ sales price of the property;

(e) remains the same.

(f) provide evidence of two comparable sales of similar property in the same general geographic area where the taxpayer's property is ~~situated~~ located. The property sales must have occurred within six months of the valuation date adopted by the department in its reappraisal plan administrative rules, as set forth in ARM Title 42, chapter 18. The department will:

(i) and (ii) remain the same.

(2) For the actual selling price of the property to be considered, the department must:

(a) through (c) remain the same.

(d) adjust the actual selling price of the property to a value that is consistent with the ~~base year~~ valuation date adopted by the department in its reappraisal plan administrative rules, located in ARM Title 42, chapter 18; and

(e) adjust the sales price of the property to account for changes in market conditions that may have occurred between the time of sale and the ~~base year~~ valuation date.

(3) After making a determination regarding use of the adjusted selling price as an indication of market value for tax purposes, the department shall ~~return the~~

~~Form AB-26~~ respond in writing to the taxpayer stating clearly the reasons for accepting or rejecting the ~~application~~ use of the sales price and, if appropriate, what adjustments were made to the actual selling price and why the adjustments were made.

(4) If the appraised value is adjusted by the department or the tax appeal board and the department files no further appeal within the time period allowed by law, the adjusted value becomes the value for assessment and taxation purposes until such time as changing circumstances with respect to the property requires a new valuation and assessment, or upon an updated valuation occurring in subsequent property valuation cycles.

~~(5) When a tax appeal board decision indicates that the adjusted selling price is market value for the property under appeal, and the department files no further appeal within the time prescribed by law, the adjusted selling price shall become the value for assessment and taxation purposes until such time as changing circumstances with respect to the property requires a new valuation and assessment or upon an updated reappraisal value.~~

AUTH: 15-1-201, MCA
IMP: 15-7-102, 15-7-111, 15-8-111, MCA

REASON: The department proposes amending ARM 42.20.454 to add a reference to another rule, improve grammar, eliminate outdated language, and align the language with other rules that cover similar or related subject matter.

The proposed amendments to (1)(a) include removing the unnecessary parenthesis around "Form AB-26," striking the 30-day language in favor of adding a reference to ARM 42.20.173, because it provides greater detail on the statutory deadlines for all requests for classification and appraisal reviews and submissions, and replacing the word "situated" with "located" in both (1)(a) and (f) for consistency with similar rules.

The department also proposes replacing "base year" with "valuation date" in (2)(d), and removing the term from (2)(e) because it became outdated when the six-year reappraisal cycle was changed to a two-year valuation cycle for class four property in 2015. The department further proposes updating (2)(d) to include a description of the content of the ARM Title 42 rules referenced in that section for clarity and consistency with (1)(f).

The department further proposes updating the language in (3), which states that the department shall "return the Form AB-26," because that language is now outdated and inaccurate. The department responds to the taxpayer to inform them of its determination, but does not return the taxpayers Form AB-26 to them. The department also proposes making this section of the rule clearer by replacing the word "application" with "use of the sales price," to directly identify the subject matter being considered by the department.

Sections (4) and (5) were determined to contain similar content; therefore, the department proposes combining them into a single section to eliminate redundancy. The department further proposes adding language into the revised section to make it clear that a valuation adjustment made to an appraisal by the department, or the tax appeal board, is subject to change with subsequent valuation cycles.

42.20.455 CONSIDERATION OF INDEPENDENT FEE APPRAISALS AS AN INDICATION OF MARKET VALUE (1) When considering any objection to the appraisal of property, the department may consider independent fee appraisals of the property as evidence of the market value of the property. For an independent fee appraisal to be considered, the taxpayer or the taxpayer's agent must ~~meet~~ submit the following ~~requirements~~ documents to the local department office in the county where the property is located:

(a) a Request for Informal Classification and Appraisal Review, Form AB-26, as set forth in ARM 42.20.173; and

~~(a)~~(b) ~~submit a signed original long-form narrative~~ a copy of the independent fee appraisal that meets the following requirements and was conducted:

(i) ~~performed~~ by an appraiser licensed or certified by the ~~state of~~ Montana Board of Real Estate Appraisers, under Title 37, chapter 54, MCA~~, or an appraiser who has been certified by a nationally recognized appraisal society or institute, to the local department office in the county where the property is situated~~;

(ii) in accordance with current uniform standards of professional appraisal practice (USPAP), as set forth for licensed or certified real estate appraisers under 37-54-403, MCA; or completed for federally related transactions or commercial lending institutions; and

~~(b)~~(iii) ~~have a valuation date~~ within six months of the ~~base-year~~ valuation date provided for ~~the appraisal required in (1)(a), or be adjusted by the department or the appraiser who performed and prepared the narrative appraisal to reflect changes in market conditions between the appraisal date and the base-year valuation date;~~ in 15-7-102, MCA, and ARM 42.18.124. This six-month requirement may necessitate that a fee appraiser conduct a retroactive appraisal, in accordance with USPAP. In this situation, the effective date of the appraisal may be prior to the date of the Appraisal Report. If an appraisal has already been conducted, and it was conducted prior to the valuation date, then:

(A) a recertification or update of value may be required as an addendum to the original appraisal; and

(B) the recertification or update of value must be completed by the same appraiser who conducted the original appraisal.

~~(c) submit a Request for Informal Classification and Appraisal Review (Form AB-26) and the original long-form narrative appraisal, to the local department office in the county where the property is situated within 30 days after the date on the classification and appraisal notice.~~

~~(2) For the independent appraisal to be considered, the department must:~~

~~(a) maintain the information and requirements in (1)(a) through (c) as a part of the file supporting the value placed on the property for tax purposes;~~

~~(b) conduct on-site reviews of the subject property verifying the property characteristics of the subject property;~~

~~(c) verify the comparable sales used in the independent appraisal as valid arm's-length transactions as defined in 15-8-111, MCA; and~~

~~(d) conduct on-site reviews of the comparable properties being used to support the value of the subject property in the appraisal.~~

(2) If the fee appraisal submitted for consideration was for class four property, as defined in 15-6-134, MCA, but not completed for a federal related transaction or commercial lending institution, the fee appraiser must determine and perform the scope of work necessary to develop, disclose, and report credible assignment results in the Appraisal Report.

(3) After making a determination regarding use of the independent fee appraisal value as market value for tax purposes, the department ~~must return the form (AB-26)~~ shall respond in writing to the taxpayer stating clearly the reasons for accepting or rejecting the ~~application~~ use of the fee appraisal and, if ~~accepted and~~ appropriate, what adjustments were made to the department's appraised value and why ~~those adjustments were made~~.

(4) ~~When a tax appeal board decision indicates that the independent appraisal value is market value for the property under appeal,~~ If the appraised value is adjusted by the department or by the tax appeal board, and the department files no further appeal within the time ~~prescribed~~ period allowed by law, the ~~independent appraisal~~ adjusted value ~~shall become~~ becomes the value for assessment and taxation purposes, until such time as changing circumstances with respect to the property requires a new valuation and assessment, or upon an updated ~~reappraisal~~ valuation occurring in subsequent property ~~value~~ valuation cycles.

AUTH: 15-1-201, MCA
IMP: 15-7-102, 15-7-111, 15-8-111, MCA

REASON: The department proposes amending ARM 42.20.455 to update the rule title, improve grammar, eliminate outdated and unnecessary language, restructure the content for better clarity, and align the language with other rules that cover related subject matter.

The department proposes adding the word "fee" ahead of appraisals in the rule title, and in (1), (1)(b), and (2), to distinguish the type of appraisal being referred to. "Fee appraisal" is a commonly used term in the appraisal industry. Adding this distinction into the rule is intended to differentiate between appraisals conducted by the department and appraisals conducted by independent fee appraisers hired by taxpayers.

Section (1) is proposed to be restructured to make it more logical and helpful by moving the language informing the taxpayer where to submit their documents up higher in the section, and then clearly stating which documents need to be included, in a list. The department is also proposing to remove outdated language from this section referencing "long-form narrative appraisals," because the department no longer requires fee appraisals to be submitted in this format.

The department further proposes striking the 30-day language from existing (1)(c) in favor of adding a reference to ARM 42.20.173 in newly numbered (1)(a), because ARM 42.20.173 provides greater detail on the statutory deadlines for all requests for classification and appraisal reviews and submissions.

The department also proposes removing the appraiser certification requirements language from the rule, because it is outdated. The language proposed to be inserted provides the department's requirements for appraisals

submitted by independent fee appraisers. As restructured, the language in newly numbered (1)(b) is intended to be more logical and clearly identify the criteria a fee appraisal must meet for consideration by the department.

The department also proposes removing the term "base year" from newly numbered (1)(b)(iii) for clarity, because that term became outdated when the six-year reappraisal cycle was changed to a two-year reappraisal cycle for class four property in 2015. The reference to the "valuation date" in this section is accurate and sufficient. The department also proposes eliminating outdated language in current (1)(b), pertaining to the department making adjustments to fee appraisals based on market conditions. Allowing department staff to make adjustments to the fee appraisal would violate current uniform standards of professional appraisal practices (USPAP). The language proposed for newly numbered (1)(b)(iii) provides that the fee appraiser who completed the original appraisal is required to complete a recertification or update the value within six months of the valuation date, which complies with USPAP.

The department proposes striking the existing language in (2)(a), pertaining to the manner in which the department retains information, because it is unnecessary detail to include in the rule. Independent fee appraisals submitted to the department are already retained with the taxpayer's informal classification and appraisal review files. The department further proposes striking the existing language in (2)(b) through (d), because it describes tasks that the independent fee appraisers, not department staff, are required to perform to comply with USPAP.

The department proposes adding language in new (2) to define the requirements for a fee appraisal submitted for consideration that was not completed for a federal related transaction or commercial lending institution, and updating the language in (3), which states that the department shall "return the Form AB-26," because that language is now outdated and inaccurate. The department responds to the taxpayer to inform them of its determination, but does not return the taxpayer's Form AB-26 to them. The department also proposes making this section of the rule clearer by replacing the word "application" with "use of the fee appraisal," to reflect the subject matter being considered by the department.

The department's proposed revision of (4) removes excess words and adds new language explaining that a valuation adjustment made to an appraisal by the department or the tax appeal board is subject to change with subsequent valuation cycles.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than September 21, 2017.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons

who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules, or through the Secretary of State's web site at sos.mt.gov/ARM/register.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 43, L. 2017, Representative Dave Fern, was contacted by regular mail on June 14, 2017 and July 13, 2017.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 4.

/s/ Laurie Logan	/s/ Mike Kadas
Laurie Logan	Mike Kadas
Rule Reviewer	Director of Revenue

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 42.20.101, 42.20.102, 42.20.105, 42.20.118, and 42.20.119 pertaining to property tax exemption applications, exemptions for veterans' organizations, exemption notifications to county treasurers, and valuation of condominiums and townhomes	))))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 7, 2017, at 1 p.m., the Department of Revenue will hold a public hearing in the Third Floor East Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 25, 2017, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.20.101 CITY AND TOWN LOTS AND IMPROVEMENTS (1) The assessment of city and town lots and the assessment of rural and urban improvements shall be at market value as determined by an appraisal using one or more of the three accepted approaches to determine value:

(a) the cost approach, where the ~~Montana Appraisal Manual~~ department's Appraisal Guide and national cost service manuals, as indicated in ARM 42.18.122, are used;

(b) and (c) remain the same.

(2) Said appraisals shall be made in the same manner as provided in 15-7-101 through ~~15-7-104~~ 15-7-103, MCA, and 15-8-112, MCA.

AUTH: 15-1-201, MCA
IMP: 15-7-103, MCA

REASON: The department proposes amending ARM 42.20.101 to update two resource references in the content of the rule. The first proposed change is in

(1)(a), to correspond with the department's renaming of the "Montana Appraisal Manual" to the "Appraisal Guide," and the second proposed change is in (2), to remove a reference to a repealed statute and renumber the remaining range of statutes accordingly.

The proposed amendments to this rule are unrelated to amendments being proposed for other rules in this same notice to implement new legislation.

42.20.102 APPLICATIONS FOR PROPERTY TAX EXEMPTIONS (1) The property owner of record, the property owner's agent, or a federally recognized tribe must file an application for a property tax exemption on a form available from the local department office before March 1, except as provided in ARM 42.20.118, of the year for which the exemption is sought. ~~All first time exemption applicants in 2016 and all owners of real property that was exempt prior to March 1, 2014, must submit an application for exempt status along with the application fee stated in (17) no later than March 1, 2016 in order for the application to be processed for tax year 2016.~~ Applications postmarked after March 1 will be considered for the following tax year only, unless the department determines any of the following conditions are met:

(a) through (c) remain the same.

(2) The department may extend the March 1 deadline to June 1, ~~for tax year 2016,~~ if the applicant was unable to apply for the current year due to a physical or mental infirmity that existed between January 1 and June 1 of the tax year in which the applicant is applying that prevented timely filing of the application.

(3) The department may extend the March 1 deadline to June 1, ~~for tax year 2016,~~ on a case-by-case basis, if the property on the application was exempt in a prior year ~~prior to 2014,~~ and the applicant:

(a) and (b) remain the same.

(4) For each application submitted, the applicant must:

(a) identify each parcel by geocode, assessor code, legal description, or physical address;

(b) explain how the applicant qualifies for the property tax exemption; and

(c) state the specific use of the real or personal property.

~~(4)~~(5) The following documents must accompany all applications, unless the applicant is a federally recognized tribe. If the applicant:

(a) remains the same.

(b) is not incorporated, a copy of the applicant's constitution or by-laws; ~~or~~

(c) has been granted tax-exempt status by the Internal Revenue Service (IRS), a copy of the applicant's tax-exempt status letter (501 determination)~~:~~

~~(i) identifying the parcel by geocode, assessor code, legal description, or physical address;~~

~~(ii) explaining how the organization, or society, qualifies for the property tax exemption; and~~

~~(iii) stating the specific use of the real or personal property~~; or

(d) has not been granted tax-exempt status by the IRS, ~~as stated by~~ the applicant must provide a written statement explaining why ~~that~~ such exemption does not exist.

(5) through (12) remain the same, but are renumbered (6) through (13).

~~(13)~~(14) For real property exemption applications where the applicant is requesting an 8-year exemption for up to 15 acres of property owned by a purely public charity, as set forth in 15-6-201, MCA, the following apply:

(a) all documents in ~~(7)~~(4), (5), and (8) must be submitted with the application;

(b) through (h) remain the same.

~~(14)~~(15) For real property exemption applications where the applicant is requesting exemption for property used for low-income housing, as set forth in 15-6-221, MCA, all documents in (4), (5), and (8) must be submitted with the application and also include:

(a) through (h) remain the same.

(16) For real property exemption applications where the applicant is requesting exemption for property used by a veterans' society or organization, as set forth in 15-6-203, MCA, and the applicant is someone other than the society or organization, the applicant must include a copy of the lease that verifies the savings from the property tax exemption is realized by the society or organization. For tax year 2017 only, the deadline to submit an exemption application is December 31, 2017.

~~(15)~~(17) Upon receipt of the application and supporting documents, the local department office will perform a field evaluation. The department will approve or deny the application~~. The~~ and notify the applicant~~, and~~ the local department office, and the county treasurer ~~will be advised,~~ of its decision in writing~~, of the decision~~.

(16) remains the same, but is renumbered (18).

~~(17) Real property exemption renewal applications must provide the documentation specified in this rule and also include a copy of IRS form 990 identifying the gross receipts of the entire organization. If IRS form 990 is not available, a copy of the current year's financial statements may be substituted. When multiple properties are being applied for, the payments may be consolidated and submitted on one instrument. The instrument must clearly identify the individual properties for which the payments are being made and the amount paid for each property. Real property exemption renewal applications will be charged a processing fee as follows:~~

~~(a) $15 for vacant land parcels;~~

~~(b) $25 for parcels with improvements; or~~

~~(c) $0 for nonprofit entities with gross receipts less than $5,000.~~

AUTH: 15-1-201, ~~15-6-230, 15-6-231,~~ MCA

IMP: 7-8-2307, 15-6-201, 15-6-203, 15-6-209, 15-6-216, 15-6-221, ~~15-6-230, 15-6-231,~~ 15-6-233, 15-6-311, 15-7-102, MCA

REASON: The department proposes amending ARM 42.20.102 to implement new legislation, remove outdated language, and restructure the rule for better clarity.

The language proposed to be stricken from (1) applied to tax year 2016, only. This language initially implemented the 2015 Legislature's requirement that previously exempt property owners reapply for exempt status for the upcoming year and pay a fee. Because future year applicants are not subject to a processing fee, it is no longer necessary to include any fee language in the rule. For this reason, the

department also proposes striking all of existing (17) from the rule and removing 15-6-231, MCA, from the implementing section of the rule.

The department also proposes striking all references to calendar year 2016 from (2) and (3). The department will continue to evaluate applications submitted past the annual March 1 deadline on a case-by-case basis to determine if there were extenuating circumstances that prevented an applicant from timely submitting their application. The department further proposes relocating the details regarding what the applicant is required to provide with their exemption applications into a separate section, as new (4), to set it apart from the list of documents provided for in newly numbered (5), to improve clarity.

The department proposes adding new (16) to implement House Bill 224, L. 2017, which allows for a veterans' organization or society to apply for a property tax exemption even if the property is owned by someone other than the organization or society. As proposed, the new language identifies the documentation applicants are required to provide and allows for an extended application deadline for 2017, because the legislation became effective after the annual March 1 deadline for property tax exemption applications had already passed.

The department also proposes updating newly numbered (17) to implement Senate Bill 324, L. 2017, which requires the department to inform the county treasurer of any determination made on a property tax exemption application. The proposed change in the language adds the county treasurer as a recipient of the department's written notification on exemption application determinations.

The department further proposes removing 15-6-230, MCA, from the authorization and implementing section of the rule because it is a temporary exemption for tribal fee land pending a trust status determination and the application process for this exemption is covered separately in ARM 42.20.118.

42.20.105 CONDOMINIUMS/TOWNHOMES (1) remains the same.

(2) The department will employ the following appraisal and assessment methodology for ~~the appraisal of~~ condominiums/townhomes, except for condominiums/townhomes situated on qualified tax-exempt community land trust property, as set forth in (6), and time-share condominiums, as set forth in (7).

(a) through (5) remain the same.

(6) The department will appraise and assess condominiums/townhomes situated on qualified tax-exempt community land trust property using the cost approach method. The cost approach method is appropriate in this situation because it utilizes national cost service manuals and does not factor in the land.

~~(6)~~(7) The department will employ the following appraisal and assessment methodology for ~~the appraisal of~~ time-share condominiums.

(a) through (c) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-8-111, 15-8-511, 70-23-102, 70-23-103, 70-23-301, 70-23-403, MCA

REASON: The department proposes amending ARM 42.20.105 to implement House Bill 200, L. 2017, which revised laws regarding shared equity properties.

The proposed change in (2) adds an exception for tax-exempt community land trust property and provides the location for where this and another exception noted in this section are addressed in the rule. The language being proposed for new (6) describes the methodology the department will use to value condominiums/townhomes situated on qualified tax-exempt community land trust properties and why the method is appropriate. The department further proposes adding a supporting implementing citation to the rule. Section 15-8-111, MCA, pertains to the market value citation in the rule.

42.20.118 TRIBAL GOVERNMENT APPLICATION FOR A TEMPORARY PROPERTY TAX EXEMPTION (1) remains the same.

(2) The tribe must file for a property tax exemption on a form available from the local department office in the county in which the tribal fee land is located on or before March 1 of the year for which the exemption is sought. A tribe with tribal fee lands located in more than one county must file an application for a property tax exemption in each county. Applications postmarked after March 1 will be considered for the following tax year. ~~All applications postmarked after that date will be considered for the following year.~~

(3) through (6) remain the same.

(7) The department will approve or deny the application based on whether the property qualified for the exemption as of January 1 of the year for which the exemption is sought. The department will notify the tribe~~,~~ ~~and~~ the local department office, and the county treasurer of its decision in writing~~, of its decision~~.

(8) and (9) remain the same.

AUTH: 15-1-201, 15-6-230, MCA
IMP: 15-6-230, MCA

REASON: The department proposes amending ARM 42.20.118 to implement Senate Bill 324, L. 2017, which requires the department to inform the county treasurer of any determination made on a property tax exemption application. The proposed change in (7) adds the county treasurer as a recipient of the department's written notification on exemption application determinations. The department also proposes striking the last sentence from (2) as a matter of language clean-up, because it is redundant with the sentence that precedes it.

42.20.119 AMMUNITION COMPONENTS MANUFACTURING - PROPERTY TAX EXEMPTION APPLICATIONS (1) The property owner of record or the property owner's agent must file an application, on a form provided by the department, for a property tax exemption for the manufacture of ammunition components, as defined in 30-20-203, MCA. The exemption applies only to property taxes levied on class eight personal property and to the mills levied on real property for state educational purposes, as described in 30-20-204, MCA. The application filing deadline for each tax year for which the exemption is being sought is~~:~~ March 1

~~(a) November 1 for tax year 2016 only; and~~

~~(b) March 1 beginning with tax year 2017 and for all tax years thereafter~~.

(2) through (5) remain the same.

(6) Upon receipt of the application and supporting documents, the department will perform a field evaluation. The department will approve or deny the application, and ~~provide~~ notify the applicant, the local department office, and the county treasurer of its ~~with a~~ decision in writing.

AUTH: 15-1-201, MCA
IMP: 15-6-219, 15-24-1410, 30-20-201, 30-20-202, 30-20-203, 30-20-204, 30-20-205, 30-20-206, MCA

REASON: The department proposes amending ARM 42.20.119 to remove outdated language from (1) that provides the 2016 application date for applying for this property tax exemption. The date proposed to be removed was specific to 2016 when this exemption was new and is no longer necessary to include in the rule. Future year applications are due by March 1 for each applicable tax year.

The department also proposes updating (6) to implement Senate Bill 324, L. 2017, which requires the department to inform the county treasurer of any determination made on a property tax exemption application. The proposed change in the language adds the county treasurer as a recipient of the department's written notification on exemption application determinations.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than September 20, 2017.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules, or through the Secretary of State's web site at sos.mt.gov/ARM/register.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 200, L. 2017, Representative Dave Fern, the primary sponsor of House Bill 224, L. 2017, Representative Tom Jacobson, and the primary sponsor of Senate Bill 324, L. 2017, Senator Russel

Tempel, were all contacted by regular mail on June 14, 2017 and July 24, 2017. All three sponsors were subsequently notified by email, on July 31, 2017, about a revision to the initial rulemaking timeline estimate.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 4.

/s/ Laurie Logan	/s/ Mike Kadas
Laurie Logan	Mike Kadas
Rule Reviewer	Director of Revenue

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 42.20.171, 42.20.620, 42.20.701, 42.20.735, 42.20.740, and 42.20.750 pertaining to land classification, natural disaster reduction, and forest land eligibility and valuation	)))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 11, 2017, at 3 p.m., the Department of Revenue will hold a public hearing in the Third Floor East PAD Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 25, 2017, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.20.171 LAND CLASSIFICATION DETERMINATION DATE FOR CLASS THREE, FOUR, AND TEN PROPERTY (1) and (2) remain the same.

(3) The appropriate land classification will be determined for the purpose of tax assessment based on the land's use as of January 1 of the current year. The following examples are intended to demonstrate how the correct land classifications are established for the current year:

(a) remains the same.

(b) Example 2 - A taxpayer ~~files an application for~~ requests forest land classification of their property by submitting a Request for Informal Classification and Appraisal Review, Form AB-26, on May 1. The department's decision is based on the property's use on January 1 of the current year and the property's ability to meet the forest land eligibility rules pursuant to ARM 42.20.705, 42.20.710, and 42.20.735;

(c) remains the same.

(d) Example 4 - A taxpayer purchases a parcel of land on May 1 of the current year. The parcel was classified as forest land on January 1 of the current year. The taxpayer ~~files an~~ requests a review of the forest land productivity by

submitting a Request for Informal Classification and Review, Form AB-26, within 30 days ~~of receipt of the assessment~~ from the date on the property classification and appraisal notice ~~requesting that the department review the forest land productivity for the property~~. If the department determines that a change in productivity is appropriate, the change is effective for the current year because the basis for the property's productivity existed on January 1 of the current year; and

(e) remains the same.

AUTH: 15-1-201, MCA
IMP: 15-6-133, 15-7-103, 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASON: The department proposes amending ARM 42.20.171 to update the examples in the rule with current terminology and add helpful detail.

The department proposes striking outdated language in (3)(b), regarding the filing of an application. Land that meets the definition of forest land in 15-44-102, MCA, automatically qualifies for forest land classification. If a property owner believes their property is incorrectly classified, they can submit a Request for Informal Classification and Appraisal Review, Form AB-26. The department further proposes inserting the name of this form in the section as a reference.

The department also proposes restructuring the language in the second sentence in (d) to improve the order of the content and remove outdated language. As restructured, the action will be stated at the beginning of the sentence and the term "files" will be replaced with "submitting," in keeping with the current term used by the department. The language regarding receipt of the classification and appraisal notice is also proposes to be changed to reference the date on the notice instead. This reflects the department's current process, which connects the review filing deadline to a specific date rather than a general timeframe. The department further proposes adding the full names of the notice "property classification and appraisal notice" and the Form AB-26 into the rule to more clearly identify these documents for the property owner.

The proposed amendments to this rule are unrelated to amendments being proposed for other rules in this same notice to implement new legislation.

42.20.620 CRITERIA FOR AGRICULTURAL LAND VALUATION FOR LAND TOTALING LESS THAN 160 ACRES (1) through (12) remain the same.

(13) A parcel or parcels of land that meet the criteria in (12)(a) through (d) are eligible for the classification determination identified in (12) regardless of when the acreage reduction occurred. However, taxpayers must notify the department of their eligibility in writing by ~~the first Monday in June or~~ submitting a Request for Informal Classification and Appraisal Review, Form AB-26, within 30 days ~~after~~ from the date on the ~~assessment~~ classification and appraisal notice for eligibility to begin in the first year of the two-year valuation cycle, or by June 1 in the second year of the valuation cycle for eligibility to begin in the second year.

(14) and (15) remain the same.

AUTH: 15-1-201, MCA
IMP: 15-7-102, 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASON: The department proposes amending ARM 42.20.620, to remove and replace outdated language and insert missing detail to improve clarity. Specifically, in (13), the department proposes adding the full name and number of the form that property owners need to use if they want to have the classification of their land reviewed. Also, the language referencing the receipt of the classification and appraisal notice is being changed to reference the date on the notice instead. This reflects the department's current process, which connects the review filing deadline to a specific date rather than a general timeframe.

The department further proposes adding language specifying the cutoff date for filing a review request in the second year of a valuation cycle into this section, to conform with the clarification in House Bill 43, L. 2017, that an appeal of values in the second year of the appraisal cycle applies only to that year of the cycle and not to both years. Section 15-7-102, MCA, is also proposed to be added as an implementing statute for the rule in support of this new provision.

42.20.701 DEFINITIONS The following definitions apply to this subchapter:

(1) "Associated forest land management use" means the intended use of a structure is to support the growth and harvest of timber on the subject property.

~~(1)~~(2) "Capable of producing timber that can be harvested in commercial quantity" means:

(a) through (c) remain the same.

(d) does not meet the stocking requirement specified in ~~(1)~~(b) ~~and~~ or (c), but has had the trees removed by man through timber harvest or by fires and other natural disasters, and has been, or will be, naturally or artificially regenerated within ten years.

(2) remains the same, but is renumbered (3).

~~(3)~~(4) "Contiguous parcels of land" means separately described parcels of land under one ownership that physically touch one another or would have touched one another were the acreages not separated by:

(a) deeded roads and highways~~,~~; ~~meandered and returned as navigable by the surveyors employed by the government of the United States,~~

(b) rivers and streams; ~~that have been adjudicated as being~~

(c) navigable~~,~~ rivers and streams;

(d) railroad lines~~,~~; or

(e) federal or state land that is leased from the federal or state government by the taxpayer whose land is physically touching the federal or state land.

(4) through (9) remain the same, but are renumbered (5) through (10).

~~(10)~~(11) "Land use" means ~~land placed into a certain~~ the type of service or utilization of the land.

(11) and (12) remain the same, but are renumbered (12) and (13).

(14) "Navigable rivers and streams" means meandering rivers and streams determined navigable by the United States government surveyors and as determined by common law.

~~(13)~~(15) "Noncontiguous parcels of land" means parcels of land under one ownership that are physically separated from one another by land in a different ownership other than:

(a) deeded roads and highways~~,~~;

(b) rivers and streams~~, meandered and returned as~~;

(c) navigable ~~by the surveyors employed by the government of the United States,~~ rivers and streams; ~~that have been adjudicated as being navigable,~~

(d) railroad lines~~,~~; or

(e) federal or state land that is leased from the federal or state government by the taxpayer whose land is physically touching the federal or state land.

(14) through (17) remain the same, but are renumbered (16) through (19).

~~(18)~~(20) "Producing timber" ~~is defined as~~ means growing trees, including trees removed through harvest, clear-cut, or by natural disaster, such as fire.

(19) through (21) remain the same, but are renumbered (21) through (23).

~~(22)~~(24) "Site" means ~~the capacity of~~ at least 15 contiguous acres with the capacity to grow timber.

(23) through (27) remain the same, but are renumbered (25) through (29).

AUTH: 15-44-105, MCA
IMP: 15-1-101, 15-44-101, 15-44-102, 15-44-103, MCA

REASON: The department proposes amending ARM 42.20.701 to define a new term based on recently enacted legislation, remove unnecessary verbiage, make grammatical corrections, insert missing detail, and revise and move an existing definition for ease of locating.

The department proposes adding and defining the term "associated forest land management use," in new (1), based on the recent passage of House Bill (HB) 583, L. 2017, which revised property taxes for forest land with residential or commercial use, and added this term to 15-16-134, MCA. To implement HB 583, the department is adding the term to ARM 42.20.750, which necessitates defining the term in this definitions rule. This is the only legislative-related change being proposed for this rule.

The department also proposes updating the definition of "contiguous parcels of land," in newly numbered (4), to remove excess language, set rivers and streams and navigable rivers and streams apart for clarity, and restructure the content to replace a long, potentially confusing sentence with an outline that separately provides the instances where contiguous parcels of land do not necessarily need to physically touch each other. The language proposed to be stricken is excess and unnecessary to include. The department further proposes striking the details pertaining to the term "navigable rivers and streams" from this definition, and also from the definition of "noncontiguous parcels of land," in newly numbered (15), and revising and relocating the definition separately, as new (14), for clarity and ease of locating alphabetically.

The department further proposes revising the definition of "land use," in newly numbered (11), by striking the statement "land placed into a certain type of service or utilization" and replacing it with "the type of service or utilization of the land," to simplify the statement.

And finally, the department proposes updating the definition of "producing timber," in newly numbered (20), to insert a missing reference to the growing of trees and properly format the lead-in statement by removing and replacing "is defined as" with "means," and amending the definition of "site," in newly numbered (24), by relocating the word "capacity" within the sentence to better convey the intended meaning.

42.20.735 FOREST LAND ELIGIBILITY - ~~GENERAL PRINCIPLES~~ OWNERSHIP (1) and (2) remain the same.

~~(3) The property owner of record or the owner's agent must provide proof of eligibility on an application form prescribed by the department.~~

~~(a) Forest land application forms will be available at the local department office. Applications must be submitted to the local department office in the county in which the property is located on or before the first Monday in June of the current tax year or within 30 days after the date on the assessment notice.~~

~~(b) An annual application is not required. The owner or owner's agent need reapply only under the following conditions:~~

~~(i) the landowner believes they meet eligibility requirements and wants the department to consider the classification of the land as forest land;~~

~~(ii) the department has reclassified the property because of a change in the eligibility of the property, a change in property use or a change in ownership.~~

~~(c) The department shall review the application and may conduct a field evaluation. The department will approve or deny the application and return a copy of the form with the written decision to the property owner or the owner's agent.~~

~~(d) An applicant for forest land classification who is dissatisfied with the department's determination may appeal to the appropriate county tax appeal board pursuant to 15-15-101, MCA.~~

~~(4)~~(3) All terms and classification procedures pertaining to forest lands are in ARM 42.20.701, 42.20.705, 42.20.710, 42.20.715, 42.20.720, 42.20.725, 42.20.730, 42.20.735, 42.20.740, and 42.20.745, and the "Montana Forest Land Classification ~~and Appraisal~~ Manual" as compiled by the department and available at a local department office or on the department's web site, revenue.mt.gov.

AUTH: 15-1-201, 15-44-105, MCA
IMP: 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASON: The department proposes amending ARM 42.20.735 to strike the language in (3), because it details an outdated application process for forest land classification. Land that meets the definition of forest land in 15-44-102, MCA, automatically qualifies for forest land classification. However, if a property owner believes their property is incorrectly classified, they can submit a Request for Informal Classification and Appraisal Review (Form AB-26). This section of the rule also notes a property owner's right to appeal the classification of their property to the county tax appeal board, which is no longer necessary to include in the rule with the application process removed.

The department further proposes updating a material reference, in newly numbered (3), to reflect the current title of the document and also proposes revising

the title of the rule to better reflect the content of the rule as amended.

The proposed amendments to this rule are unrelated to amendments being proposed for other rules in this same notice to implement new legislation.

42.20.740 NATURAL DISASTER REDUCTION - GENERAL PRINCIPLES

(1) remains the same.

(2) The property owner of record as of January 1 of the first full tax year for which the reduction in value is sought, or that owner's agent, must ~~complete an application with~~ submit to the local department office in ~~which~~ the county where the property is located a Request for Informal Classification and Appraisal Review, Form AB-26, ~~. The application prescribed by the department will be the property adjustment Form AB-26. The application must be made on or before the first Monday in June or~~ within 30 days ~~after~~ from the date on the ~~assessment~~ classification and appraisal notice ~~for~~ in the first ~~full~~ year ~~for which the reduction in value is requested~~ of the six-year valuation cycle or by June 1 of any subsequent year of the valuation cycle for eligibility to begin in that subsequent year.

~~(3) The department shall review the property adjustment form and may conduct a field evaluation. The department will issue a written determination to the applicant.~~

~~(4)~~(3) The ~~applicant shall include~~ ~~on the property adjustment form~~ following information must be included on the Form AB-26:

(a) through (g) remain the same.

~~(5)~~(4) Forest land shall be eligible for a 50 percent reduction in assessed value provided:

(a) remains the same.

(b) the forest land affected contained at least 10 percent stocking of live trees prior to the natural disaster; and

(c) the forest land affected contains 10 percent stocking or less of live trees after the occurrence of the natural disaster~~; and~~

~~(d) the applicant has timely filed the request for valuation review, as required in (2), and the natural disaster occurred after December 31, 1993~~.

(5) A reduction to the assessed value in the first year is applicable to all years in the reduction period, as provided for in (1). A reduction in assessed value for an appeal filed in years after the first year applies to the year in which the appeal is timely filed and the remaining years in the reduction period.

(6) The department shall review the Form AB-26 and may conduct a field evaluation. The department will approve or deny the request and notify the property owner of its determination in writing.

AUTH: 15-1-201, 15-44-105, MCA
IMP: 15-7-102, 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASON: The department proposes amending ARM 42.20.740 to implement House Bill (HB) 43, L. 2017, which authorized an informal review deadline for the second year in a property valuation cycle; and also proposes restructuring some of the existing rule content to improve clarity, and removing outdated language that no longer needs to remain in the rule.

The updates in (2) are being proposed to add the filing deadlines for property owners to submit a Request for Informal Classification and Appraisal Review, Form AB-26, for the different years in the valuation cycle, to add the full name of the form to the language, and to specify where the form is to be submitted.

The department also proposes striking the language in existing (3) and relocating the relevant information to the end of the rule, as new (6), to properly align the order of the rule content with the order of events for better clarity. The remaining language being stricken in this section of the rule is outdated terminology that is no longer necessary to include in the rule.

The department further proposes removing outdated language and making a grammatical change to the lead-in sentence in newly numbered (3), for better clarity, and striking (d) from newly numbered (4) entirely, because it is an unnecessary duplication of information covered elsewhere in the rule.

The department also proposes adding the new language in (5) to correspond with the clarifying language in HB 43 that an appeal may be made in any year of a valuation cycle, and to make it clear that any reduction in assessed value of the property will apply only to the year the appeal was timely filed and any years that remain in the valuation cycle. Section 15-7-102, MCA, is also proposed to be added as an implementing statute for the rule in support of this new provision.

42.20.750 VALUATION OF ONE ACRE BENEATH IMPROVEMENTS ON FOREST LAND (1) A market valuation will be made for each one-acre area beneath ~~each~~ the residence(s) which is located on forest land as provided in ARM 42.20.705.

(a) through (e) remain the same.

~~(f) To avoid double taxation, the productive capacity value for the one-acre area beneath the residence(s) on forest land must be subtracted from the productive capacity value for the entire property ownership.~~

(2) Land under structures associated with forest land management will be valued as forest land. If there is a residence on the same land as the structures associated with forest land management practices, the one-acre area beneath each residence is valued at market value.

(2) remains the same, but is renumbered (3).

AUTH: 15-44-105, MCA
IMP: 15-6-134, 15-7-103, 15-7-201, 15-7-202, 15-8-111, MCA

REASON: The department proposes amending ARM 42.20.750 to eliminate outdated language from the rule and to insert new language based on the enactment of House Bill 583, L. 2017, which revised property taxes for forest land with residential or commercial use and classified the one acre beneath a residence on forest land as class four property that is valued at market value.

The proposed amendments include correcting a grammatical error in (1), striking (1)(f), because each acre of land is classified according to its use rather than the method currently stated in that section of the rule, and adding new (2), to specify the exclusion of the one-acre of land beneath each residence from valuation as forest land.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than September 21, 2017.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4, faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules, or through the Secretary of State's web site at sos.mt.gov/ARM/register.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 43, Representative Dave Fern, and the primary sponsor of House Bill 583, Representative Kerry White, were both contacted by regular mail on June 14, 2017 and July 24, 2017.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 4.

/s/ Laurie Logan	/s/ Mike Kadas
Laurie Logan	Mike Kadas
Rule Reviewer	Director of Revenue

Certified to the Secretary of State August 7, 2017.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of an emergency rule closing a portion of Seeley Lake in Missoula County	)))	NOTICE OF ADOPTION OF AN EMERGENCY RULE

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) The Rice Ridge Fire is burning approximately 3 miles northeast of Seeley Lake in Lolo National Forest.

(b) Fire suppression efforts include several aircraft scooping and bucketing water from Seeley Lake.

(c) The closure is necessary so aircraft crews can safely operate and maneuver without potential collisions with recreationists on the lake. The closure is also necessary so recreationists, including those with limited maneuverability, are not subject to potential collision with large, heavy water buckets suspended from helicopters.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 16 of the 2017 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 1, 2017, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; or e-mail jesssnyder@mt.gov.

3. The emergency rule is effective August 1, 2017 when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

<u>RULE I SEELEY LAKE EMERGENCY CLOSURE</u>

(1) Seeley Lake is located in Missoula County.

(2) Seeley Lake is closed to all public occupation and recreation including, but not limited to, floating, swimming, wading, and boating.

(3) This rule is effective as long as the lake is needed as a source of water for fire suppression efforts. This will depend on the extent and duration of the fire in

the area. Posted signs regarding the emergency closure will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-303, MCA
IMP: 2-4-303, 87-1-303, MCA

5. The rationale for the emergency rule is as set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Jessica Snyder, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; or e-mail jesssnyder@mt.gov. Any comments must be received no later than September 15, 2017.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Mike Volesky
Mike Volesky
Acting Director
Department of Fish, Wildlife and Parks

/s/ Zach Zipfel
Zach Zipfel
Rule Reviewer

Certified to the Secretary of State August 1, 2017.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 18.8.1501 and 18.8.1502, pertaining to Motor Carrier Services Safety Requirements	)))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On July 7, 2017, the Department of Transportation published MAR Notice No. 18-163 pertaining to the proposed amendment of the above-stated rules at page 968 of the 2017 Montana Administrative Register, Issue Number 13.

2. The department has amended the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

/s/ Michael T. Tooley
Michael T. Tooley
Director
Department of Transportation

Certified to the Secretary of State August 7, 2017.

BEFORE THE BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.222.502 speech-language pathologist and audiologist licenses, 24.222.504 military training or experience, 24.222.506 licensure of out-of-state applicants, 24.222.510 examinations, 24.222.916 establishing the practitioner-patient relationship, 24.222.920 competence – practice limits – maintenance and retention of records, 24.222.2102 continuing education – speech-language pathologists and audiologists; the adoption of New Rule I nonroutine applications; and the repeal of ARM 24.222.404 board standards and policy, 24.222.501 applications for license, 24.222.503 qualifications for active temporary license, 24.222.507 temporary practice permits, 24.222.2101 policy, 24.222.2103 continuing education definitions, 24.222.2115 renewals, and 24.222.2401 complaint procedure	))	NOTICE OF AMENDMENT, ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On May 26, 2017, the Board of Speech-Language Pathologists and Audiologists (board) published MAR Notice No. 24-222-26 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 628 of the 2017 Montana Administrative Register, Issue No. 10.

2. On June 20, 2017, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the June 23, 2017, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: Two commenters expressed general support for the proposed rule changes.

RESPONSE 1: The board appreciates all comments received during the rulemaking process.

COMMENT 2: Multiple commenters asked the board to further amend ARM 24.222.502(4) to require that audiologist license applicants complete a supervised clinical practicum from an educational institution or its cooperating program as a part of the degree program.

RESPONSE 2: Because a doctoral degree is required for audiologist licensure, and doctoral programs include a year of supervised clinical practicum, the board concluded that it is unnecessary to specify the requirement separately. The board is amending ARM 24.222.502 exactly as proposed.

COMMENT 3: Several commenters supported the amendments to ARM 24.222.916 that allow practitioner-patient relationships via telepractice to commence without an initial in-person evaluation.

RESPONSE 3: The board appreciates all comments received during the rulemaking process.

COMMENT 4: Several commenters supported the amendments to ARM 24.222.920 that remove the requirement of four hours of board-approved training prior to engaging in telepractice.

RESPONSE 4: The board appreciates all comments received during the rulemaking process.

COMMENT 5: Citing national association CE trends, multiple commenters suggested the board require 20 to 30 continuing education (CE) hours for speech-language pathologists and audiologists instead of the ten proposed in ARM 24.222.2102(2).

RESPONSE 5: The board concluded that requiring 10-15 hours annually will more accurately reflect current CE trends among licensure boards while ensuring competent practitioners and not unduly burdening licensees, and is amending the rule exactly as proposed.

COMMENT 6: One commenter suggested the board consider adopting rules to allow licensed speech-language pathologists to "telesupervise" aides or assistants who are registered under that licensee.

RESPONSE 6: The board is currently exploring telesupervision of aides and assistants in a separate rulemaking project.

COMMENT 7: Multiple commenters suggested the board require that speech-language pathology assistants be licensed.

RESPONSE 7: The board notes that this suggestion is outside the scope of its rulemaking authority, as licensure types must originate in statute.

4. The board has amended ARM 24.222.502, 24.222.504, 24.222.506, 24.222.510, 24.222.916, 24.222.920, and 24.222.2102 exactly as proposed.

5. The board has adopted NEW RULE I (ARM 24.222.405) exactly as proposed.

6. The board has repealed ARM 24.222.404, 24.222.501, 24.222.503, 24.222.507, 24.222.2101, 24.222.2103, 24.222.2115, and 24.222.2401 exactly as proposed.

BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS
LUCY HART PAULSON, Ed.D., CCC-SLP
CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 7, 2017.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known Subject

1. Consult ARM Topical Index.
   Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2017. This table includes those rules adopted during the period March 31, 2017, through June 30, 2017, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 2017, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2017 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in July 2017 appear. Vacancies scheduled to appear from September 1, 2017 through November 30, 2017, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month′s appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of August 1, 2017.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Board of Funeral Service			
Mr. James Coryell Axelson	Governor	Reappointed	7/1/2017
Butte			7/1/2022
Qualifications (if required): Representative of a Cemetery Company			
Mr. John Tarr	Governor	Reappointed	7/1/2017
Helena			7/1/2022
Qualifications (if required): Representative of the public			
Board of Pardons and Parole			
Mr. Mike Batista	Governor	New	7/18/2017
Helena			1/1/2019
Qualifications (if required): Extensive experience in the criminal justice system			
Ms. Annette Carter	Governor	New	7/1/2017
Helena			1/1/2021
Qualifications (if required): Extensive experience in corrections			
Mr. Scott Cruse	Governor	New	7/1/2017
Helena			1/1/2023
Qualifications (if required): Extensive Experience in the Criminal Justice System			
Mr. Edward Foley	Governor	New	7/1/2017
Butte			1/1/2021
Qualifications (if required): Extensive experience in corrections			

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Board of Pharmacy			
Ms. Marian Jensen	Governor	Reappointed	7/1/2017
Butte			7/1/2022
Qualifications (if required): Public Member			
Board of Public Accountants			
Ms. Linda Harris	Governor	Reappointed	7/1/2017
Absarokee			7/1/2021
Qualifications (if required): Certified Public Accountant			
Mr. John C. Melton	Governor	New	7/1/2017
Chester			7/1/2020
Qualifications (if required): Public Representative			
Mr. Daniel Vuckovich	Governor	Reappointed	7/1/2017
Great Falls			7/1/2021
Qualifications (if required): Certified Public Accountant			
Board of Regents of Higher Education			
Mr. Chase Greenfield	Governor	Birky	7/1/2017
Missoula			6/30/2018
Qualifications (if required): Student Regent			

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Board of Trustees for the Montana Historical Society			
Mr. Kent Kleinkopf	Governor	Reappointed	7/1/2017
Missoula			7/1/2022
Qualifications (if required): Public Representative			
Mr. Stephen W. Lozar	Governor	Reappointed	7/1/2017
Polson			7/1/2022
Qualifications (if required): Public Representative			
BG (Ret.) Harold Joseph Stearns	Governor	Reappointed	7/1/2017
Missoula			7/1/2022
Qualifications (if required): Historian			
Board of Veterinary Medicine			
Dr. Barbara Hilton Calm	Governor	Reappointed	7/31/2017
Kila			8/1/2022
Qualifications (if required): Licensed Veterinarian			
Board of Water Well Contractors			
Mr. Kirk Waren	Director	Reappointed	7/1/2017
Butte			6/30/2020
Qualifications (if required): Technical Advisor			

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Committee on Telecommunications Access Services for Persons with Disabilities			
Mr. Andrew S. Arnot	Governor	Reappointed	7/1/2017
Missoula			7/1/2020
Qualifications (if required): Independent Service Provider			
Ms. Marilyn Daumiller	Governor	Reappointed	7/1/2017
Helena			7/1/2020
Qualifications (if required): Person without a disability			
Mr. John Pavao	Governor	Kirkland	7/1/2017
Helena			7/1/2019
Qualifications (if required): Member from the Department of Administration			
Mr. Thomas Henry Thompson	Governor	Dickens	7/1/2017
Missoula			7/1/2019
Qualifications (if required): Person with disability			
Director of the Department of Corrections			
Director Reginald D. Michael	Governor	New	7/10/2017
Helena			1/1/2021
Qualifications (if required):			
Governor's Advisory Council on Aging			
Mr. Ryan Clark	Governor	Winters	7/1/2017
Billings			7/1/2020
Qualifications (if required): Public Representative			

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Governor's Advisory Council on Aging Cont.			
Mr. Robert C. Meyers	Governor	Reappointed	7/1/2017
Great Falls			7/1/2020
Qualifications (if required): Public Representative			
Ms. Peggy Lynne Tombre	Governor	Reappointed	7/1/2017
Bozeman			7/1/2020
Qualifications (if required): Public Representative			
Judicial Standards Commission			
Mr. John Murphy	Governor	Reappointed	7/1/2017
Great Falls			7/1/2021
Qualifications (if required): Citizen who is not an attorney or judge of any court, active or retired			
Labor-Management Advisory Council			
Mr. Doug Buman	Governor	New	7/5/2017
Seattle, WA			12/31/2018
Qualifications (if required): Representing Employees			
Mr. Chris Cavazos	Governor	New	7/5/2017
Helena			12/31/2018
Qualifications (if required): Representing employees			
Lt. Governor Mike Cooney	Governor	New	7/5/2017
Helena			12/31/2018
Qualifications (if required): none specified			

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Labor-Management Advisory Council Cont.			
Mr. Bill Dahlgren Missoula Qualifications (if required): Montana Chamber of Commerce	Governor	New	7/5/2017 12/31/2018
Ms. Annette Hoffman Billings Qualifications (if required): Representing employers	Governor	New	7/5/2017 12/31/2018
Mr. Larry Jones Missoula Qualifications (if required): Representative of employers	Governor	New	7/5/2017 12/31/2018
Mr. Marvin Jones Great Falls Qualifications (if required): Employers representing self-insurers	Governor	New	7/5/2017 12/31/2018
Mr. Don Judge Helena Qualifications (if required): Representing employees	Governor	New	7/5/2017 12/31/2018
Mr. Jim Larson Billings Qualifications (if required): Representing employees	Governor	New	7/5/2017 12/31/2018

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Labor-Management Advisory Council Cont.			
Mr. Al Smith	Governor		7/5/2017
Helena			12/31/2018
Qualifications (if required): Employees chosen by the Montana Trial Lawyers Association			
Mr. Eric Strauss	Governor	New	7/5/2017
Helena			12/31/2018
Qualifications (if required): Ex-officio Member			
Mr. Lance Zanto	Governor	New	7/5/2017
Helena			12/31/2018
Qualifications (if required): Representing employers			
Land Information Advisory Council			
Mr. Joshua F. Alexander	Governor	Clampitt	7/1/2017
Billings			6/30/2019
Qualifications (if required): Person employed by the US Dept. of the Interior			
Ms. Dawn Anderson	Governor	Hagener	7/1/2017
Helena			6/30/2019
Qualifications (if required): Designee of a Department Director			
Ms. Ricki Ann Bauer	Governor	Cabrera	7/1/2017
Garrison			6/30/2019
Qualifications (if required): County or municipal government			

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Land Information Advisory Council Cont.			
Mr. Mike Bousliman Helena Qualifications (if required): Designee of a Department Director	Governor	Tooley	7/1/2017 6/30/2019
Mr. Rudy Cicon Chester Qualifications (if required): Montana Association of Registered Land Surveyors	Governor	Reappointed	7/1/2017 6/30/2019
Mr. Gordon Conn Helena Qualifications (if required): Designee of a Department Director	Governor	Kadas	7/1/2017 6/30/2019
Ms. Janet Cornish Butte Qualifications (if required): Active in land information systems & represents public utilities	Governor	Leland	7/1/2017 6/30/2019
Mr. Warren C. Fahner, Jr. Polson Qualifications (if required): County or municipal government	Governor	Reappointed	7/1/2017 6/30/2019
Ms. Elaina M. Graham Great Falls Qualifications (if required): U.S. Department of Agriculture	Governor	Reappointed	7/1/2017 6/30/2019

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Land Information Advisory Council Cont.			
Mr. Jerry Grebenc Helena	Governor	Gifford	7/1/2017 6/30/2019
Qualifications (if required): Active in land information systems and represents public utilities			
Mr. Matthew Heller Bozeman	Governor	Reappointed	7/1/2017 6/30/2019
Qualifications (if required): Person employed by the U.S Department of the Interior			
Ms. Molly Hirschi Bozeman	Governor	Reappointed	7/1/2017 6/30/2019
Qualifications (if required): Person who is a member of the Montana Association of GIS Professionals			
Mr. Valentijn Hoff Missoula	Governor	von Reichert	7/1/2017 6/30/2019
Qualifications (if required): Montana University System			
Ms. Catherine Maynard Helena	Governor	Reappointed	7/1/2017 6/30/2019
Qualifications (if required): U.S. Department of Agriculture			
Mr. Eric Spangenberg Helena	Governor	Pembroke	7/1/2017 6/30/2019
Qualifications (if required): County or municipal government			

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Land Information Advisory Council Cont.			
Director John Tubbs Helena	Governor	Reappointed	7/1/2017 6/30/2019
Qualifications (if required): Department Director			
Ms. Leslie Zolman Helena	Governor	Reappointed	7/1/2017 6/30/2019
Qualifications (if required): Person who is a member of the Montana Association of GIS Professionals			
Montana Pulse Crop Committee			
Mr. Ryan Bogar Vida	Governor	Reappointed	7/1/2017 6/30/2018
Qualifications (if required): Member from an eastern district			
Dr. Charles Boyer Bozeman	Governor	New	7/1/2017 6/30/2019
Qualifications (if required): Dean of Agriculture of Montana State University-Bozeman			
Mr. Paul Kanning Flaxville	Governor	New	7/1/2017 6/30/2020
Qualifications (if required): Member from an eastern district			
Ms. Kim Murray Froid	Governor	Reappointed	7/1/2017 6/30/2018
Qualifications (if required): At-Large Member from either district			

EXECUTIVE BRANCH APPOINTEES FOR JULY 2017

Appointee	Appointed By	Succeeds	Appointment/End Date
Montana Pulse Crop Committee Cont.			
Mr. Roger Sammons Cut Bank Qualifications (if required): At-Large Member from either district	Governor	New	7/1/2017 6/30/2018
Mrs. Jillien Streit Chester Qualifications (if required): Member from a western district	Governor	New	7/1/2017 6/30/2020
Director Ben Thomas Helena Qualifications (if required): Director of the Department of Agriculture	Governor	New	7/1/2017 1/1/2021
Mr. Ron Williams Portland, OR Qualifications (if required): Representative of the pulse industry	Governor	New	7/1/2017 6/30/2019

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
9-1-1 Advisory Council		
Mr. Geoff Feiss, Helena	Director	9/1/2017
Qualifications (if required): Montana Telephone Company		
Mr. Chuck Winn, Bozeman	Director	9/1/2017
Qualifications (if required): Representative of the Montana League of Cities and Towns		
Ms. Lisa Kelly, Kalispell	Director	9/1/2017
Qualifications (if required): Montana Telephone Company		
Mrs. Kimberly Burdick, Fort Benton	Director	9/1/2017
Qualifications (if required): Representative of the Montana Association of Public Safety		
Mr. Terry Ferestad, Billings	Director	9/1/2017
Qualifications (if required): Montana Telephone Company		
Captain Tom Butler, Belgrade	Director	9/1/2017
Qualifications (if required): Department of Justice		
Ms. Heather Roos, Miles City	Director	9/1/2017
Qualifications (if required): Public Safety Answering Point Manager serving a population of less than 30,000		
Administrator Delila Bruno, Fort Harrison	Director	9/1/2017
Qualifications (if required): Representative of the Department of Military Affairs		
Mr. Rick Musson, Laurel	Director	9/1/2017
Qualifications (if required): Representative of the Montana Association of Chiefs of Police		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
9-1-1 Advisory Council Cont.		
Ms. Jennie Stapp, Helena	Director	9/1/2017
Qualifications (if required): State Librarian		
Mr. Ron Baldwin, Helena	Director	9/1/2017
Qualifications (if required): Department of Administration Designee		
Mr. Kevin Box, Whitehall	Director	9/1/2017
Qualifications (if required): Montana Emergency Medical Services Association		
Captain Curt Stinson, Helena	Governor	9/1/2017
Qualifications (if required): Montana Association of Chiefs of Police		
Sheriff Chris Hoffman, Hamilton	Director	9/1/2017
Qualifications (if required): Representative of the Montana Sheriffs and Peace Officers Association		
Mr. Bill Hunter, Great Falls	Director	9/1/2017
Qualifications (if required): Public Safety Answering Point Manager serving a population over 30,000		
Chief Leonard Lundby, Great Falls	Director	9/1/2017
Qualifications (if required): Representative of the Montana Fire Chiefs Association		
Commissioner Gary McDonald, Wolf Point	Director	9/1/2017
Qualifications (if required): Representative of the Montana Association of Counties		
Chief Greg Megaard, Bozeman	Director	9/1/2017
Qualifications (if required): Representative of the Montana Fire Chiefs Association		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Achieving a Better Life Experience (ABLE) Program Oversight Committee		
Mr. Jon Bennion, Helena	Governor	9/1/2017
Qualifications (if required): Experience working on behalf of disabled individuals		
Board of Alternative Health Care		
Ms. Molly Danison, Missoula	Governor	9/1/2017
Qualifications (if required): Midwife		
Board of Athletic Trainers		
Mr. Mark Meredith, Bozeman	Governor	10/1/2017
Qualifications (if required): Athletic Trainer employed or retired from a secondary school		
Ms. Shadra Robison, Billings	Governor	10/1/2017
Qualifications (if required): Public Representative		
Ms. Janet Trethewey, Havre	Governor	10/1/2017
Qualifications (if required): Member of public not engaged in or directly connected with practice of athletic training		
Board of Barbers and Cosmetologists		
Ms. Angela Printz, Livingston	Governor	10/1/2017
Qualifications (if required): Cosmetologist		
Mr. Thayne Orton, Florence	Governor	10/1/2017
Qualifications (if required): Barber		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Board of Medical Examiners		
Ms. Carole Erickson, Missoula Qualifications (if required): Public Representative	Governor	9/1/2017
Mr. Dwight Thompson, Harlowton Qualifications (if required): PA Certified	Governor	9/1/2017
Dr. Kristin Spanjian, Billings Qualifications (if required): Doctor of Medicine	Governor	9/1/2017
Ms. Patricia Bollinger, Helena Qualifications (if required): Nutritionist	Governor	9/1/2017
Mr. Charles Farmer, Cut Bank Qualifications (if required): Volunteer Emergency Medical Technician	Governor	9/1/2017
Mrs. Ana Diaz, Billings Qualifications (if required): Public Representative	Governor	9/1/2017
Board of Outfitters		
Mr. Timm Twardoski, Helena Qualifications (if required): Member of the General Public	Governor	10/1/2017
Mr. Hugo Tureck, Coffee Creek Qualifications (if required): Sportsperson	Governor	10/1/2017

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Board of Outfitters Cont.		
Mr. Grover Bennett Aldrich, Missoula	Governor	10/1/2017
Qualifications (if required): Sportsperson		
Mr. John Way, Ennis	Governor	10/1/2017
Qualifications (if required): Outfitter engaged in the fishing and hunting outfitting business		
Board of Psychologists		
Representative Linda L. Holden, Valier	Governor	9/1/2017
Qualifications (if required): Public Representative		
Building Codes Council		
Mr. Rick Hutchinson, Black Eagle	Governor	10/1/2017
Qualifications (if required): Licensed Electrician selected by the State Electrical Board		
Mr. Mick Wonnacott, Butte	Governor	10/1/2017
Qualifications (if required): Representative from the Building Industry		
Mr. Allen Lorenz, Helena	Governor	10/1/2017
Qualifications (if required): State Fire Marshall		
Mr. Ronald E. Brothers, Hamilton	Governor	10/1/2017
Qualifications (if required): Member of the general public who does not hold public office		
Mr. Ron Bartsch, Montana City	Governor	10/1/2017
Qualifications (if required): Representative of the Home Building Industry		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Building Codes Council Cont.		
Mr. Jason Fitzgerald, Billings	Governor	10/1/2017
Qualifications (if required): Practicing Architect licensed in Montana		
Mr. Robert Risk, Bozeman	Governor	10/1/2017
Qualifications (if required): County, City or Town Inspector		
Mr. Sean Smith, Anaconda	Governor	10/1/2017
Qualifications (if required): Licensed Plumber selected by the Board of Plumbers		
Mr. Josh Wallery, Helena	Governor	10/1/2017
Qualifications (if required): Representative of the Manufactured Housing Industry		
Mr. Jason Douglas Poston, Missoula	Governor	10/1/2017
Qualifications (if required): Licensed Elevator Mechanic		
Mr. Matthew Lemert, Livingston	Governor	10/1/2017
Qualifications (if required): Licensed plumber selected by the Board of Plumbers		
Burial Preservation Board		
Mr. Steve Platt, Helena	Governor	9/1/2017
Qualifications (if required): Montana State Historic Preservation Officer		
Ms. Marilyn Silva, Miles City	Governor	9/1/2017
Qualifications (if required): Representative of the Public		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Burial Preservation Board Cont.		
Ms. Skye Gilham, Browning	Governor	9/1/2017
Qualifications (if required): Physical Anthropologist		
Certification Committee for Developmental Disabilities Professionals		
Ms. Rebecca DeCamara, Helena	Director	9/1/2017
Qualifications (if required): Representative of the Developmental Disabilities Program		
Ms. Deborah Swingley, Helena	Director	9/1/2017
Qualifications (if required): none specified		
Dr. Michelle McCall, Helena	Director	9/1/2017
Qualifications (if required): Representative of the Developmental Disabilities Program		
Mr. Sam Morgenroth, Helena	Governor	9/1/2017
Qualifications (if required): none specified		
Mr. Sherman Weimer, Miles City	Director	9/1/2017
Qualifications (if required): none specified		
Historical Society Preservation Review Board		
Ms. Carol Bronson, Great Falls	Governor	10/1/2017
Qualifications (if required): Public Representative		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Noxious Weed Seed Free Forage Advisory Council		
Mr. Stephen Henry White, Great Falls Qualifications (if required): MSU Agriculture Research Center	Director	9/1/2017
Mr. James Bouma, Choteau Qualifications (if required): Forage Producer	Director	9/1/2017
Director Ron de Yong, Helena Qualifications (if required): Department of Agriculture	Director	9/1/2017
Ms. Michelle Miller, Billings Qualifications (if required): Forage Pellets Producer	Director	9/1/2017
Ms. Jennifer Cramer, Hysham Qualifications (if required): County Weed District	Director	9/1/2017
Mr. Tom Benson, Pablo Qualifications (if required): Weed District	Director	9/1/2017
Mr. Kehoe Wayman, Ronan Qualifications (if required): Outfitter	Director	9/1/2017
Mr. Mark Siderius, Kalispell Qualifications (if required): Forage Producer	Director	9/1/2017
Mr. Steve Johns, Helena Qualifications (if required): Forage Producer	Director	9/1/2017

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Noxious Weed Seed Free Forage Advisory Council Cont.		
Mr. Carter Butori, Dillon Qualifications (if required): Forage Producer	Director	9/1/2017
Ms. Jane Mangold, Bozeman Qualifications (if required): Montana State University	Director	9/1/2017
Mr. Bob Rangitsch, Ovando Qualifications (if required): Livestock/Agriculture	Director	9/1/2017
Mr. Larry Dorn, Hardin Qualifications (if required): Forage Producer Representative	Governor	9/1/2017
Ms. Michelle Whiteside, Miles City Qualifications (if required): Feed, Pellet, Cube Representative	Governor	9/1/2017
Mr. James Melin, Livingston Qualifications (if required): Forage Producer	Governor	9/17/2017
Ms. Margie Edsall, Sheridan Qualifications (if required): Western Weed District Representative	Governor	9/17/2017
Ms. Jennifer Esp, Broadus Qualifications (if required): Eastern Weed District Representative	Governor	9/17/2017
Mr. Colter Tinsen, Great Falls Qualifications (if required): Forage Pellets Producer	Governor	9/17/2017

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Potato Commodity Advisory Committee		
Mr. Bill Buyan, Sheridan	Director	9/1/2017
Qualifications (if required): Actively involved in the Potato Industry		
Protect Montana Kids Commission		
Ms. Jani McCall, Billings	Governor	10/1/2017
Qualifications (if required): Public Representative		
Mr. Scott Darkenwald, Helena	Governor	10/1/2017
Qualifications (if required): Department of Justice Representative		
Ms. Joyce Funda, Helena	Governor	10/1/2017
Qualifications (if required): CASA or foster parent		
Ms. Ali Bovingdon, Helena	Governor	10/1/2017
Qualifications (if required): Governor's Office Representative		
Ms. Leslie Halligan, Missoula	Governor	10/1/2017
Qualifications (if required): District Court Judge		
Mr. William Hooks, Helena	Governor	10/1/2017
Qualifications (if required): Office of the Public Defender Representative		
Ms. Sarah Corbally, Helena	Governor	10/1/2017
Qualifications (if required): Department of Public Health and Human Services Representative		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Protect Montana Kids Commission Cont.		
Mr. Schylar Baber-Canfield, Butte	Governor	10/1/2017
Qualifications (if required): Organization involved in Child Abuse Representative		
Ms. Ann Lawrence, Kalispell	Governor	10/1/2017
Qualifications (if required): County Attorney		
Mr. Matthew Lowy, Missoula	Governor	10/1/2017
Qualifications (if required): Private Attorney		
Ms. Megan Bailey, Saint Ignatius	Governor	10/1/2017
Qualifications (if required): Tribal Member		
Mr. Bart Klika, Missoula	Governor	10/1/2017
Qualifications (if required): Having research experience		
Dr. Tom Strizich, Helena	Governor	10/1/2017
Qualifications (if required): Practicing Pediatrician		
Ms. Jaci Noonan, Anaconda	Governor	10/1/2017
Qualifications (if required): Public Representative		
State Rehabilitation Council		
Mr. Michael Woods, Billings	Governor	10/1/2017
Qualifications (if required): Advocacy Community		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
State Rehabilitation Council Cont.		
Mr. John Senn, Billings Qualifications (if required): Advocacy Community	Governor	10/1/2017
Mr. Rick Heitz, Kalispell Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Amy Capolupo, Missoula Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Annaliese Gibbs, Billings Qualifications (if required): Vocational Rehabilitation Community	Governor	10/1/2017
Mr. Jim Marks, Helena Qualifications (if required): Vocational Rehabilitation Community	Governor	10/1/2017
Ms. Coreen Louise Faulkner, Missoula Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Tiffany Costa, Billings Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Donna Marie Robnett, Frenchtown Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Sharyl Wells, Browning Qualifications (if required): Section 121 Representative	Governor	10/1/2017

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Statewide Interoperability Governing Board		
Atty. Gen. Tim Fox, Helena	Governor	10/1/2017
Qualifications (if required): Attorney General or designee		
Mr. Geoff Feiss, Helena	Governor	10/1/2017
Qualifications (if required): Representative of Montana's Telecommunications Industry		
Mr. Kevin Myhre, Lewistown	Governor	10/1/2017
Qualifications (if required): Representative of the Montana League of Cities & Towns		
Sheriff Leo Dutton, Helena	Governor	10/1/2017
Qualifications (if required): Representative of the Montana Sheriffs & Peace Officers Association		
Chief Mike Doto, Butte	Governor	10/1/2017
Qualifications (if required): Representative of the Montana State Volunteer Firefighters Association		
Administrator Delila Bruno, Fort Harrison	Governor	10/1/2017
Qualifications (if required): Representative of the Department of Military Affairs		
Mr. Jason Smith, Helena	Governor	10/1/2017
Qualifications (if required): Montana Director of Indian Affairs		
Director Mike Tooley, Helena	Governor	10/1/2017
Qualifications (if required): Montana Department of Transportation Director or designee		
Captain Patrick Lonergan, Bozeman	Governor	10/1/2017
Qualifications (if required): Representative of the Montana Fire Chiefs Association		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Statewide Interoperability Governing Board Cont.		
Mr. Ron Baldwin, Helena	Governor	10/1/2017
Qualifications (if required): Montana Chief Information Officer or his designee		
Commissioner Joe Briggs, Great Falls	Governor	10/1/2017
Qualifications (if required): Representative of the Montana Association of Counties		
Ms. Siri Smillie, Helena	Governor	10/1/2017
Qualifications (if required): Governor's Office Representative		
Mr. Kevin Box, Whitehall	Governor	10/1/2017
Qualifications (if required): Representative of the Montana Emergency Medical Services Association		
Captain Curt Stinson, Helena	Governor	10/1/2017
Qualifications (if required): Representative of the Montana Association of Chiefs of Police		
Water and Wastewater Operators' Advisory Council		
Mr. Lorren Schlotfeldt, Havre	Governor	10/16/2017
Qualifications (if required): University Faculty Member		
Ms. Crystal Richards, Billings	Governor	10/16/2017
Qualifications (if required): University Faculty		
Mr. Eleazer Resurreccion, Havre	Governor	10/16/2017
Qualifications (if required): Faculty of a university or college whose major field is related to water supply systems		

EXECUTIVE BRANCH VACANCIES – SEPTEMBER 1, 2017 THROUGH NOVEMBER 30, 2017

Board/Current Position Holder	Appointed By	Term End
Workers' Compensation Court Judge		
Mr. David M. Sandler, Kalispell	Governor	9/7/2017
Qualifications (if required): Nominated by the Judicial Nomination Commission		

MONTANA ADMINISTRATIVE REGISTER

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COREY STAPLETON
SECRETARY OF STATE

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